REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2005

REVENUE RECEIPTS

GOVERNMENT OF TAMIL NADU

2

Raj Bhavan Library
- 8 JUN 2006
Chennai-600 022

REPORT OF
THE COMPTROLLER AND AUDITOR GENERAL
OF INDIA

FOR THE YEAR ENDED 31 MARCH 2005

(REVENUE RECEIPTS)

GOVERNMENT OF TAMIL NADU

7740

http://www.cag.gov.in

CONTENTS

Paragraph		Page
	Preface	v
	Overview	vii - x
	CHAPTER I **GENERAL**	
1.1	Trend of revenue receipts	1
1.2	Variations between budget estimates and actuals	3
1.3	Cost of collection	5
1.4	Collection of sales tax per assessee	5
1.5	Arrears of revenue	6
1.6	Arrears in assessments	7
1.7	Evasion of tax	8
1.8	Write off and waiver of revenue	8
1.9	Refunds	9
1.10	Results of Audit	9
1.11	Failure of senior officials to enforce accountability and protect interest of Government	10
1.12	Departmental Audit Committee Meeting	11
1.13	Response of the Department/Government to Draft Audit Paragraphs	11
1.14	Follow up on Audit Reports – summarised position.	12

Paragraph		Page
	CHAPTER II	
	SALES TAX	
2.1	Results of Audit	13
2.2	Review: **Cross verification of sales/purchases**	14
2.3	Concessions/Exemptions against declaration forms	21
2.4	Incorrect grant of exemption from levy of tax	24
2.5	Application of incorrect rate of tax	25
2.6	Non levy of surcharge	27
2.7	Non/short levy of additional sales tax	27
2.8	Non levy of interest for belated payment of tax	29
2.9	Erroneous waiver of tax under Samadhan Scheme and consequent non levy of interest	30
2.10	Delay in revision of assessment	31
	CHAPTER-III	
	LAND REVENUE	
3.1	Results of Audit	33
3.2	Review: **Receipts from leasing of Government Lands**	34
3.3	Administration of Revenue Recovery Act, 1864	41
3.4	Non collection of land cost	44

Paragraph		Page
	CHAPTER IV **STAMP DUTY AND REGISTRATION FEES**	
4.1	Results of Audit	45
4.2	Incorrect allocation of transfer duty surcharge to local body	45
4.3	Short levy of stamp duty and registration fees in respect of lease deeds	46
4.4	Short levy due to under valuation of property	47
4.5	Incorrect adoption of rate of stamp duty resulted in short levy	47

	CHAPTER V **TAXES ON VEHICLES AND STATE EXCISE**	
5.1	Results of Audit	49
	TAXES ON VEHICLES	
5.2	Non levy of additional tax on stage carriages issued with temporary permits	50
5.3	Non levy of green tax in respect of old motor vehicles	50
	STATE EXCISE	
5.4	Non levy of penalty for low yield of rectified spirit	51
5.5	Non collection of excise duty at enhanced rates	51

Paragraph		Page
	CHAPTER VI **OTHER TAX RECEIPTS**	
6.1	Results of Audit	53
	AGRICULTURAL INCOME TAX	
6.2	Non levy of interest and penalty on short/belated payment of advance tax	54
	URBAN LAND TAX	
6.3	Omission to assess urban lands	55

	CHAPTER VII **NON TAX RECEIPTS**	
	MINES AND MINERALS	
7.1	Results of Audit	57
7.2	Non collection of brick mineral annual fee	57

PREFACE

This report for the year ended 31 March 2005 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, land revenue, stamp duty and registration fees, taxes on vehicles, state excise, agricultural income tax, urban land tax and non-tax receipts.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2004-2005 as well as those noticed in earlier years, but could not be included in previous years' Reports.

OVERVIEW

The Audit Report contains 23 paragraphs including 2 reviews relating to non levy/short levy of taxes, interest, penalty, etc., involving Rs.576.20 crore. Some of the major findings are mentioned below:

I General

The revenue raised by the State during 2004-05 amounted to Rs.21,565.39 crore comprising Rs.19,357.04 crore as tax revenue and Rs.2,208.35 crore as non-tax revenue. Rs.4,236.39 crore was received from the Government of India as State's share of divisible Union taxes and Rs.2,649.75 crore as grants in aid.

Sales Tax (Rs.12,996.18 crore) formed a major portion (67 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits of Rs.590.05 crore accounted for 27 *per cent* of the non tax revenue.

(Paragraph 1.1)

At the end of 2004-05, the arrears in respect of taxes administered by the departments of Commercial Taxes, Revenue, Industries, etc., amounted to Rs.7,728.38 crore of which sales tax and mines and minerals accounted for Rs.7,362.36 crore.

(Paragraph 1.5)

Test-check of records of sales tax, state excise, land revenue, urban land tax, taxes on vehicles and other departmental offices conducted during the year 2004-05 revealed under assessments, short levy, loss of revenue, etc., amounting to Rs.852.56 crore in 2,430 cases.

(Paragraph 1.10)

As at the end of June 2005, 6,134 Inspection Reports issued upto December 2004 containing 20,477 audit observations with money value of Rs.2,399.64 crore were pending settlement with various departments.

(Paragraph 1.11)

II Sales Tax

A review on **Cross verification of sales/purchases** revealed the following

- In 50 assessment circles there was large scale omission to issue cross check references. Recommendation of PAC regarding checking of a minimum of 15 *per cent* of cases was not adhered to.

  (Paragraph 2.2.6)

- Exemption was allowed against evasion prone commodities during the years 2000-01 to 2002-03 on a turnover of Rs.3,939.69 crore involving tax of Rs.182.32 crore, without ascertaining their sufferance of tax at earlier stages.

  (Paragraph 2.2.7)

- Cross verification in audit revealed incorrect allowance of exemption of consignment sales of cardamom involving tax and penalty of Rs.24.96 crore in two assessment circles.

  (Paragraph 2.2.9)

Incorrect grant of exemptions/concessions against declaration forms resulted in non/short levy of tax of Rs.2.34 crore.

(Paragraph 2.3)

Application of incorrect rate of tax resulted in short levy of tax of Rs.5.24 crore.

(Paragraph 2.5)

In 55 assessment circles in respect of 86 dealers, additional sales tax was either not levied or short levied to the extent of Rs.6.71 crore.

(Paragraph 2.7)

Erroneous waiver of tax under Samadhan Scheme amounted to Rs.83.80 lakh besides the consequent non levy of interest.

(Paragraph 2.8)

Interest of Rs.2.08 crore was omitted to be levied for belated payment of tax by four dealers.

(Paragraph 2.9)

III Land Revenue

A review on **Receipts from leasing of Government lands** revealed the following.

- Failure to lease Government lands in three cases, although encroachers were in possession of the land for a long time, resulted in loss of revenue of Rs.6.31 crore, of which Rs.3.55 crore was for the last five years.

  (Paragraph 3.2.6)

- Non renewal of leases in 22 lease cases resulted in non levy of lease rent of Rs.33.68 crore, of which, Rs.20.30 crore pertained to the last five years.

  (Paragraph 3.2.7)

- Non revision of leases in eight lease cases resulted in non levy of lease rent of Rs.17.45 crore, of which, Rs.10.72 crore was for the last five years.

  (Paragraph 3.2.8)

- Short levy of lease rent in six lease cases resulted in short realisation of revenue of Rs.568.18 crore, of which, Rs.477.51 crore was for the last five years.

  (Paragraph 3.2.9)

- Non-assignment and non/belated resumption of Government lands in respect of 35 lease cases and non collection of lease rent resulted in non realisation of revenue of Rs.300.72 crore, of which Rs.296.06 crore was for the last five years.

  (Paragraph 3.2.10)

In 18 taluks, demand notice in Form 4 under Revenue Recovery Act was not issued in 6,794 cases involving arrears of Rs.19.84 crore.

(Paragraph 3.3.4)

IV Stamp Duty and Registration Fee

In eight sub registries, erroneous allocation/excess allocation of transfer duty surcharge to local bodies resulted in incorrect allocation of Rs.1.09 crore.

(Paragraph 4.2)

V Taxes on Vehicles and State Excise

Additional tax of Rs.84.04 lakh in respect of 411 special permits issued was omitted to be levied.

(Paragraph 5.2)

In two distilleries, for short realisation of 3.77 bulk litres of rectified spirit, penalty of Rs.1 crore, though leviable, was not levied.

(Paragraph 5.4)

VI Agricultural Income Tax

In one circle, for belated payment of advance tax, interest and penalty of Rs.58.56 lakh, though leviable, was not levied.

(Paragraph 6.2)

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by the Government of Tamil Nadu during the year 2004-05, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

(Rupees in crore)

		2000-01	2001-02	2002-03	2003-04	2004-05
I	Revenue raised by the State Government					
	(a) Tax Revenue	12,282.24	13,009.70	14,341.71	15,944.97	19,357.04
	(b) Non tax revenue*	1,710.78 (1,657.10)	1,556.73 (1,499.85)	1,860.62 (1,742.46)	2,093.79 (2,058.53)	2,208.35 (-)
	Total	**13,993.02** **(13,939.34)**	**14,566.43** **(14,509.55)**	**16,202.33** **(16,084.17)**	**18,038.76** **(18,003.50)**	**21,565.39** **(-)**
II	Receipts from the Government of India					
	(a) State's share of divisible Union taxes	2,783.75	2,870.07	3,047.57	3,544.20	**4,236.39
	(b) Grants in aid	1,539.89	1,381.54	1,586.84	2,122.75	2,649.75
	Total	**4,323.64**	**4,251.61**	**4,634.41**	**5,666.95**	**6,886.14**
III	**Total receipts of the State [(I) + (II)]**	18,316.66 (18,262.98)	18,818.04 (18,761.16)	20,836.74 (20,718.58)	23,705.71 (23,670.45)	28,451.53 (-)
IV	**Percentage of I to III**	**76**	**77**	**77**	**76**	**76**

* Figures in brackets represent non tax revenue including receipts from lotteries net of expenditure on prize winning tickets.

** For details please see Statement No.11 – Detailed Accounts of Revenue by Minor Heads of the Finance Accounts of the Government of Tamil Nadu for the year 2004-05. Figures under the Head '0021 – Taxes on Income other than Corporation Tax – Share of net proceeds assigned to States' booked in the Finance Accounts under 'A – Tax Revenue' have been excluded from revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

Of the total receipts (Rs.28,451.53 crore) for the year 2004-05, 76 *per cent* was raised by the State Government and remaining 24 *per cent* came from the Union Government as State's share of divisible Union taxes and grants in aid.

1.1.2 The details of tax revenue raised during the year 2004-05 along with the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	2000-01	2001-02	2002-03	2003-04	2004-05	Percentage of increase (+) or decrease (-) in 2004-05 over 2003-04
1	Sales Tax	8,197.15	8,385.59	9,589.60	11,004.63	12,996.18	18
2	State Excise	1,868.68	2,058.22	2,113.61	1,657.10	2,549.00	54
3	Stamp Duty and Registration Fees	910.20	1,137.89	1,079.12	1,316.40	1,604.36	22
4	Taxes on Vehicles	590.44	648.43	745.62	934.29	1,014.75	9
5	Land Revenue	55.72	50.47	8.40	17.50	71.95	311
6	Taxes on Agricultural Income	5.23	2.02	1.63	1.25	0.59	(-) 53
7	Taxes on Immovable Property other than Agricultural Land (Urban Land Tax)	11.65	14.11	12.69	12.03	11.81	(-) 2
8	Others	643.17	712.97	791.04	1,001.77	1,108.40	11
	Total	**12,282.24**	**13,009.70**	**14,341.71**	**15,944.97**	**19,357.04**	

State Excise: The increase (54 *per cent*) was due to increase in receipts under malt liquor, foreign liquors and spirits, etc.

Land Revenue: The payments to local bodies as deduct refunds were not made during the year 2004-05. Hence the increase (311 *per cent*).

Reasons for increase/shortfall, though called for from other departments, have not been received (September 2005).

1.1.3 The details of major non tax revenue realised during the year 2004-05 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Heads of Revenue	2000-01	2001-02	2002-03	2003-04	2004-05	Percentage of increase (+) or decrease (-) in 2004-05 over 2003-04
1	Interest Receipts, Dividends and Profits	440.17	535.42	594.70	559.74	590.05	5
2	Crop Husbandry	64.87	79.19	62.22	61.61	57.27	(-) 7
3	Forestry and Wild Life	131.18	97.04	157.44	90.21	155.07	72
4	Non-Ferrous Mining and Metall-urgical Industries	395.33	160.40	181.09	377.54	409.58	8
5	Education, Sports, Art and Culture	53.75	65.79	89.50	122.58	143.43	17
6	Other Receipts (a) State Lotteries	121.66	126.70	119.50	22.18	852.95	(-) 3
	(b) Others	503.82	492.19	656.17	859.93		
	Total	1,710.78	1,556.73	1,860.62	2,093.79	2,208.35	

Forestry and Wild life: The increase (72 *per cent*) was mainly due to increased receipts under sale of timber and other forest products etc.

Reasons for increase/shortfall, though called for from other departments, have not been received (September 2005).

1.2 Variations between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2004-2005 in respect of the principal heads of tax and non tax revenue are given below:

(Rupees in crore)

Sl. No	Heads of Revenue	Budget estimates	Actuals	Variations excess (+) or short fall (-)	Percentage of variation
1	Sales tax	11,732.00	12,996.18	1,264.18	11
2	State excise	2,350.59	2,549.00	198.41	8
3	Stamp duty and registration fees	1,350.23	1,604.36	254.13	19
4	Taxes on vehicles	1,101.11	1,014.75	(-) 86.36	(-) 8
5	Land revenue	21.44	71.95	50.51	236
6	Taxes on immovable property other than agricultural Land (Urban Land Tax)	14.72	11.81	(-) 2.91	(-) 20
7	Taxes and duties on electricity	222.72	243.05	20.33	9
8	Interest receipts, dividends & profits	473.22	590.05	116.83	25
9	Non ferrous mining and metallurgical industries	525.39	409.58	(-) 115.81	(-) 22
10	Crop husbandry	53.65	57.27	3.62	7
11	Roads and bridges	22.67	37.86	15.19	67
12	Major and medium irrigation	20.15	15.63	(-) 4.52	(-) 22

Sales Tax: The increase (11 *per cent*) was due to general inflationary trend and creation of Tax Recovery Cell for collection of old arrears.

Reasons for variations, though called for from other departments, have not been received (September 2005).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection, during the years 2002-03, 2003-04 and 2004-05 along with the relevant all India average percentage of expenditure on collection to gross collection for 2003-04 were as follows:

(Rupees in crore)

Sl. No	Heads of Revenue	Year	Collection	Expen-diture on collection of revenue	Percentage of expen-diture on collection	All India average percent-age for the year 2003-04
1	Sales tax	2002-03	9,589.60	93.64	0.98	
		2003-04	11,004.63	93.70	0.85	1.15
		2004-05	12,996.18	102.34	0.79	
2	Taxes on vehicles	2002-03	745.62	35.29	4.73	
		2003-04	934.29	34.69	3.71	2.57
		2004-05	1,014.75	48.56	4.79	
3	State excise	2002-03	2,113.61	23.15	1.10	
		2003-04	1,657.10	19.84	1.20	3.81
		2004-05	2,549.00	25.88	1.02	
4	Stamp duty and regis-tration fees	2002-03	1,079.12	71.85	6.66	
		2003-04	1,316.40	79.00	6.00	3.66
		2004-05	1,604.36	84.02	5.24	

It can be seen from the above that the percentage of expenditure on collection of taxes on vehicles and stamp duty and registration fee was higher than the all India average.

1.4 Collection of sales tax per assessee

(Rupees in crore)

Year	No. of assessees	Sales tax revenue	Revenue/ assessee
2000-01	1,06,242	8,197.15	0.08
2001-02	1,06,946	8,385.59	0.08
2002-03	1,45,489	9,589.60	0.07
2003-04	1,57,126	11,004.63	0.07
2004-05	1,83,707	12,996.18	0.07

1.5 Arrears of revenue

The arrears of revenue as on 31 March 2005 in respect of some principal heads of revenue amounted to Rs.7,728.38 crore, of which Rs.1,825.65 crore were outstanding for more than five years as detailed in the following table:

(Rupees in crore)

Sl. No.	Heads of Revenue	Amount outstanding as on 31 March 2005	Amount outstanding for more than 5 years as on 31 March 2005	Remarks
1	2	3	4	5
1	Sales tax	7,106.42	1,577.43	Out of the total arrears of Rs.7,106.42 crore, demands amounting to Rs.2,690.14 crore were covered under Revenue Recovery Act. Demands amounting to Rs.1,059.23 crore were stayed by Government, High Court and other judicial authorities. Rs.264.29 crore could not be recovered on account of the assessees becoming insolvent. Rs.1,942.69 crore was pending under deferral. Rs.328.80 crore was involved in cases pending under BIFR*/AAIFR**. Rs.356.28 crore was likely to be written off/waived. Rs.202.22 crore was to be eliminated and a sum of Rs.258.52 crore was under various stages of recovery. Rs.4.25 crore has since been collected.
2	Mines and minerals	255.94	94.14	Out of the total arrears of Rs.255.94 crore, demands amounting to Rs.13.14 crore were covered under Revenue Recovery Act, demands amounting to Rs.110.11 crore were stayed by High Court and other judicial authorities. A sum of Rs.74.21 crore was likely to be written off. Rs.57.48 crore was under various stages of collection, while Rs.1 crore has since been collected.
3	Stamp duty and registration fees	182.50	50.00	The entire arrears of Rs.182.50 crore were covered by recovery certificates.
4	Urban land tax	105.27	38.52	Demands amounting to Rs.20.60 crore were stayed by Government, High Court and other judicial authorities. Rs.71.65 crore was under various stages of collection. Rs.13.02 crore has since been collected

* Board for Industrial & Financial Reconstruction

** Appellate Authority for Industrial & Financial Reconstruction

1	2	3	4	5
5	State excise	48.41	48.41	Out of the total arrears of Rs.48.41 crore, demands amounting to Rs.17.57 crore were covered under Revenue Recovery Act, demands amounting to Rs.1.74 crore were stayed by Government, High Court and other judicial authorities. Rs.4.51 crore was held up due to rectification/review application. Rs.0.15 crore was held up on account of persons becoming insolvent, Rs.0.50 crore was likely to be written off, Rs.23.33 crore was under various stages of collection. Rs.0.61 crore has since been collected.
6	Land revenue	26.89	16.19	Out of the total arrears of Rs.26.89 crore, demands amounting to Rs.3.05 crore were stayed by High Court and other judicial authorities, Rs.4.64 crore was stayed by State Government, Rs.0.13 crore was likely to be written off, Rs.16.61 crore was under various states of collection. Rs.2.46 crore has since been collected.
7	Taxes on vehicles	2.95	0.96	Out of the total arrears of Rs.2.95 crore, demands amounting to Rs.1.97 crore were covered under Revenue Recovery Act. Demands amounting to Rs.27.70 lakh were stayed by High Court and other judicial authorities, Rs.70.72 lakh was under various stages of collection. .
	Total	7,728.38	1,825.65	

1.6 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2004-05, cases that are due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2004-05, as furnished by the Sales Tax Department in respect of sales tax and by Revenue Department in respect of urban land tax and agricultural income tax are as follows:

Head of Revenue	Opening balance	New cases due for assessment during 2004-05	Total assess-ments due	Cases disposed of during 2004-05	Balance at the end of the year	Percen-tage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Sales Tax	53,533	1,71,052	2,24,585	1,70,293	54,292	76
Urban Land Tax	5,093	2,227	7,320	1,383	5,937	19
Agricultural Income Tax	251	3,338	3,589	1,379	2,210	38

1.7 Evasion of tax

The details of cases of evasion of tax detected, sales tax cases finalised and the demands for additional tax raised as reported by the Department are given below:

(Rupees in crore)

Sl. No.	Head of revenue	Cases pending as on 31 March 2004	Cases detected during 2004-05	Total	Cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2005
					No.	Amount	
1	Sales Tax i) Enforcement Wing.	4,601	8,582	13,183	7,380	N.F*.	5,803
	ii) Administrative-Wing.	3,933	4,723	8,656	3,290	661.25	5,366

* Not furnished.

1.8 Write off and waiver of revenue

During the year 2004-05, Rs.1.73 crore (in 176 cases) relating to sales tax were written off by the Department as irrecoverable. Reasons for the write off of these demands as reported by the Department were as follows:

(Rupees in lakh)

Sl. No.	Reasons	Sales Tax	
		No. of cases	Amount
1	Whereabouts of defaulters not known	140	160.63
2	Defaulters no longer alive	25	0.24
3	Defaulters not having any property	10	2.46
4	Defaulters adjudged insolvent	1	9.24
	Total	**176**	**172.57**

In addition to the above, sales tax amounting to Rs.1.12 crore in 28 cases, was waived during the year.

1.9 Refunds

The number of refund cases pending at the beginning of the year as on 1 April 2004, claims received during the year, refunds allowed during the year and cases pending at the close of the year as on 31 March 2005, as reported by the departments are given below:

(Rupees in crore)

Sl. No.	Particulars	Sales Tax		Taxes on Vehicles		Mines and Minerals	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	59,048	98.62	21	0.02	6	0.01
2	Claims received during the year	38,436	101.61	383	0.76	26	10.92
3	Refunds made during the year	26,058	66.21	337	0.72	26	10.89
4	Balance outstanding at the end of the year	71,426	134.02	67	0.06	6	0.04

1.10 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts and non tax receipts conducted during 2004-05 revealed under assessment/short levy/loss of revenue amounting to Rs.852.56 crore in 2,430 cases. During the year, the Departments accepted under assessment of Rs.8.33 crore in 1,157 cases pointed out in 2004-05 and earlier years and recovered Rs.2.47 crore.

This Report contains 23 paragraphs including two reviews relating to non/short levy of taxes, duties, interest and penalties etc., involving Rs.576.20 crore. The Department/Government accepted audit observations involving Rs.4.07 crore, of which Rs.1.28 crore was recovered upto September 2005. Final reply has not been received in respect of the remaining cases (September 2005).

1.11 Failure of senior officials to enforce accountability and protect interest of Government

Audit observations on incorrect assessments, short levy of taxes, duties and fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. Serious financial irregularities are reported to the heads of departments concerned and the Government. The heads of offices are required to furnish replies to the inspection reports through their respective heads of departments within a period of two months.

1.11.1 The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2004, which were pending settlement by the departments as on 30 June 2005, along with corresponding figures for the preceding two years are given below:

	Position as on 30 June		
	2003	2004	2005
Number of inspection reports pending settlement	5,627	5,629	6,134
Number of outstanding audit observations	21,348	18,709	20,477
Amount of revenue involved (Rupees in crore)	2,053.26	2,139.19	2,399.64

The increase in the outstanding audit reports and objections is indicative of non compliance with Government's instruction to send replies to initial audit observations and report on further action taken thereon within the stipulated time. State audit committee and departmental audit committee were constituted in March 1993 with the objectives of expeditious settlement of outstanding paras. This has not been achieved.

1.11.2 Revenue headwise breakup of the inspection reports and audit observations outstanding as on 30 June 2005 is given below:

Sl. No.	Revenue Heads	Number of outstanding		Amount (in crore of rupees)	Earliest year to which the inspection report relates
		Inspection reports	Audit observations		
1	2	3	4	5	6
1	Sales tax	2,820	13,141	667.57	1987-88
2	Stamp duty and registration fees	986	1,935	53.93	1984-85
3	Land revenue	709	1,897	1,054.18	1988-89
4	Taxes on vehicles	379	940	76.72	1983-84
5	State Excise	244	522	110.19	1987-88

1	2	3	4	5	6
6	Taxes on agricultural income	77	207	81.46	1986-87
7	Mines and minerals	230	640	283.97	1989-90
8	Urban land tax	229	618	29.89	1983-84
9	Electricity duty	69	120	30.28	1986-87
10	Entertainments tax	107	117	8.93	1992-93
11	Luxury tax	150	162	1.37	1994-95
12	Betting tax	12	23	0.09	1991-92
13	Entry tax	122	155	1.06	2003-04
	Total	6,134	20,477	2,399.64	

1.12 Departmental Audit Committee Meeting

During the course of the year 2004-05, five meetings were held in respect of Commercial Taxes Department pertaining to sales tax. One hundred and twenty three paras with a value of Rs.41.73 lakh were settled during these meetings. In respect of other departments, no departmental audit committee meeting was held during the year 2004-05.

1.13 Response of the Department/Government to draft audit paragraphs

Government (Finance Department) issued directions to all departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks as early as in 1952 itself. The draft paragraphs are forwarded to the Secretaries of the concerned departments through demi official letters, drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Thirty eight draft paragraphs (finally clubbed into 23 paragraphs including two reviews) proposed to be included in this Report were forwarded to the Secretaries of the respective departments during the period from April to June 2005, through demi official letters and followed up with reminders in July 2005.

The Secretaries of the departments did not send replies to 19 draft paragraphs including two reviews. These paragraphs have been included in this Report without the response of the Secretaries of the departments.

1.14 Follow up on Audit Reports – Summarised position

With a view to ensuring accountability of the executive in respect of all the issues dealt with in Audit Reports, the Public Accounts Committee (PAC) directed that the concerned departments should furnish remedial/corrective Action Taken Notes (ATN) on all paragraphs contained therein, within the prescribed time frame.

A review of outstanding ATNs as of 31 March 2005 on paragraphs included in the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu, disclosed that for 932 recommendations pertaining to 277 audit paragraphs discussed by PAC, the departments had not submitted remedial ATNs. Out of the 932 recommendations pending, ATNs were not submitted by the departments even once in respect of 577 recommendations, the earliest of which relate to the Report of 1986-87.

Further, PAC has also laid down that necessary explanatory notes for the issues mentioned in the audit report should be furnished to the Committee within a maximum period of two months from the date of placing of the Reports before Legislature. Though the Audit Reports for the years from 1998-99 to 2002-03 were placed before the Legislative Assembly between May 2000 and July 2004, the departments are yet to submit explanatory notes for 76 paragraphs (including nine reviews) included in these reports.

CHAPTER II

SALES TAX

2.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2004 to March 2005 revealed under assessments, etc., amounting to Rs.167.49 crore in 1,585 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1	Incorrect exemption from levy of tax	337	22.12
2	Application of incorrect rate of tax	422	19.92
3	Incorrect computation of taxable turnover	182	8.27
4	Non levy of penalty/interest	313	10.46
5	Others	329	77.44
6	Review on **Cross verification of sales/purchases**	1	27.13
7	Exemptions/concessions against declaration forms	1	2.15
	Total	1,585	167.49

During the course of the year 2004-05, the Department accepted under assessments, etc. amounting to Rs.2.53 crore in 831 cases, out of which, Rs.1.36 crore in respect of 680 cases were pointed out during the year and the rest in earlier years. Of these, the Department recovered Rs.1.23 crore, in 708 cases.

After issue of draft paragraphs the Department recovered Rs.44.87 lakh pertaining to two audit observations during the year 2004-05.

A review on cross verification of sales/purchases and a few illustrative cases involving Rs.44.67 crore are mentioned below:

2.2 Review on cross verification of sales/purchases

Highlights

- **In 50 assessment circles, there was large scale omission to issue cross check references and recommendation of PAC for checking a minimum of 15 *per cent* of cases had not been adhered to.**

[Paragraph 2.2.6]

- **Exemption was allowed in respect of evasion prone commodities during the years 2000-01 to 2002-03 on a turnover of Rs.3,939.69 crore involving tax of Rs.182.32 crore without ascertaining the earlier sufferance to tax.**

[Paragraph 2.2.7]

- **Non compliance of prescribed time limit of two months for disposal of cross check references, resulted in accumulation of 3,225 inward cross check references in 56 assessment circles.**

[Paragraph 2.2.8]

- **Cross verification revealed incorrect allowance of exemption of consignment sale of cardamom to other States involving tax and penalty of Rs.24.96 crore in two assessment circles.**

[Paragraph 2.2.9]

Recommendations:

Government may ensure that the internal audit wing conducts requisite check of files/records concerned with disposal of cross check references as envisaged in the circular instructions of the Commissioner of Commercial Taxes.

Introduction

2.2.1 Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) provides for levy of tax on goods only at the point and at the rates specified in the schedules to the Act. The sale or purchase of goods at all other points, other than those specified for levy of tax, are exempt. Under Rule 19-B of the TNGST Rules, 1959, a dealer claiming exemption from payment of tax is required to file a return in Form A-9 every month showing details of purchases or sales in the preceding month for which exemption is claimed.

Standing Order 225-C (ii) issued in March 1945 by the Commercial Taxes Department requires the assessing officers to cross check transactions of a dealer with a view to detect suppression of turnover and consequent evasion of tax by communicating transactions picked out judiciously from the books of the dealer to the assessing officer of the area, in which the supplying or buying dealers carry on business. For this purpose, registers in prescribed forms are required to be maintained.

Organisational set up

2.2.2 The Commercial Taxes Department is headed by the Commissioner of Commercial Taxes (CCT), who functions with the assistance of five Joint Commissioners (JCs), 10 Deputy Commissioners (DCs) and 46 Assistant Commissioners (ACs). Assessment, levy and collection of sales tax is done in 323 assessment circles of which 234 are headed by Commercial Tax Officers (CTOs), 83 by Deputy Commercial Tax Officers (DCTOs), six by ACs assessing certain high turnover dealers in Fast Track assessment circles in Chennai and Coimbatore divisions. There is separate inter state investigation cell (ISIC) headed by a DC to whom doubtful cases of interstate transactions requiring investigation are referred by the assessing officers.

Scope of Audit

2.2.3 A para on "cross check references (CCRs) in sales tax assessments" was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 1987. The report was discussed by the Public Accounts Committee (PAC) and the PAC recommended that:

- a minimum of 15 *per cent* of the total cases dealt with in each assessment circle be cross checked;
- references should be selected in such a way that all evasion prone commodities are covered and
- CCRs should be disposed of within a reasonable time limit to avoid litigations.

The review was conducted during the period from June 2004 to May 2005 and records pertaining to the years from 1999-2000 to 2003-04 were test checked in 108 out of 323 assessment circles on the basis of the turnover involved and the nature of commodities dealt with in the assessment circles. The findings of the review are given in the succeeding paragraphs.

The findings were reported to the Government/Department in June 2005 with a request for attending the meeting of Audit Review Committee (ARC) so that the views of Government/ Department could be taken into account before finalising the review. The ARC meeting was held on 19 August 2005. This review has been finalised taking into account the Department/Government's views that emerged during the ARC meeting.

Audit Objectives

2.2.4 The review was conducted with a view to:

- detect suppression of sales/purchase turnover and consequent evasion of tax through cross verification of records;
- examine adherence to the recommendations of the PAC and the instructions of the CCT issued thereon;
- ascertain the effectiveness of the system of cross verification.

Internal control mechanism

2.2.5 In pursuance to the recommendations of the PAC, the CCT issued instructions in 1996 to the effect that:

- CCRs should be issued for cases of claim of exemption as second sales, especially in respect of evasion prone commodities;
- incoming CCRs should be disposed of within a period of two months;
- internal audit parties should verify the concerned registers maintained for this purpose to point out any inaction noticed therein;
- registers relating to CCRs should be reviewed by ACs/DCs during annual inspection to ensure their prompt disposal and
- if, subsequently, audit paras are written on these points, serious action will be taken not only against the assessing officers but also against internal audit officers for their failure to exercise proper supervision.

It was noticed during review that though the ACs/DCs made observations on the pendency of CCRs during their annual inspection, the registers maintained for the purpose of issue/disposal of CCRs were not scrutinised by the internal audit parties and hence they did not comment on the inaction of the assessing authorities in respect of their prompt disposal. As is evident from the succeeding paragraphs, though CCRs were not issued/disposed of in prescribed manner /time limit, no action was found to have been taken to ensure compliance with the instructions issued by CCT in November 1996.

Large scale omission to issue cross check references

2.2.6 It was noticed in 50[1] circles that 95,868 assessments involving total turnover of Rs.57,603 crore were finalised during the years 2001-02 to 2003-04. The assessments involved exemptions of turnover of

[1] Ambur, Annasalai-III, Avarampalayam, Avinashi Road (Comibatore), Chithrakkara Street, Chithode, Chengleput, Devakottai, Gudiyatham (East), Harbour-III, Jayamkondan, Karur (South), Kovilpatti-I & II, Kuzhithurai, Loan square I & II, Mettupalayam Road, Moore Market North, Nanjappa Road, Nethaji Road, N.H. Road, Oppanakkara Street, P.N.Palayam, Paramakudi, Peria Agraharam, Periamet, Park Town-II, Perambur-I, Papanasam, Ram Nagar, Sai Baba Colony, Salem Town (North), Senkottai, Sivakasi-I, II & III, Tiruppur (Rural, Bazaar, Central-I & II, North, South, Lakshmi Nagar), Tambaram I & II, Tamil Sangam Salai, Virudhu Nagar II & III and Vaniyambadi.

Rs.28,728 crore on account of sales or purchases attributed to non taxable points. The exempted turnover works out to 50 *per cent* of the gross turnover. CCRs for ensuring sufferance of tax at earlier stages were, however, issued in respect of exempted turnover of Rs.389 crore, which works out to 1.35 *per cent* of the exempted turnover as detailed below:

(Rupees in crore)

Year	No. of assessments finalised	Turnover involved	Exempted turnover	Turnover for which CCRs were issued	Percentage of CCRs to exempted turnover
2001-02	32,260	21,684.78	9,538.59	114.12	1.20
2002-03	32,848	18,733.33	9,087.62	101.38	1.12
2003-04	30,670	17,184.92	10,101.80	173.17	1.71
Total	**95,868**	**57,603.03**	**28,728.01**	**388.67**	**1.35**

It was further noticed in 11[2] assessment circles that not even a single CCR was found to have been issued for atleast one year during the period from 2001-02 to 2003-04, though turnover of Rs.2,113.02 crore was exempted in these cases.

After this was pointed out, the Department stated that the reasons for omission were reduction in staff strength, heavy pressure of work and allowance of exemption on the strength of documentary evidence. In two circles, the circular instruction of the CCT issued in 2001 that CCRs should not be issued in a routine manner was cited as reason for non issue of CCRs. The reply is not tenable as the instructions issued by the CCT in 2001 are supplementary in nature and not supersession of recommendations of the PAC/instructions already issued in 1996.

Exemptions allowed in respect of tax evasion prone commodities

2.2.7 Under the provisions of TNGST Act the assessing authority may, if he is satisfied that the escape from assessment is due to willful non disclosure of assessable turnover by the dealer, direct the dealer to pay in addition to tax, by way of penalty, a sum which shall be 50 *per cent* of the tax due on the turnover that was willfully not disclosed. According to the instructions of CCT issued in November 1996, the claim of exemption on second sales by dealers involving turnover of more than Rs.25,000 especially in evasion prone commodities should be cross verified. The Department identified 21[3] commodities as evasion prone.

[2] Annasalai-I, Annasalai-III, Avarampalayam (Coimbatore), Avinashi Road (Coimbatore), Devakottai, Nethaji Road (Madurai), Saibaba Colony (Coimbatore), Tiruppur Bazaar, Tiruppur North, Tirukoilur and Uthamapalayam

[3] bricks & tiles, cattle feed & poultry feed, chillies, cotton yarn, dyes & chemicals, electrical goods, furniture, groundnut, hides & skins, hosiery goods, iron & steel, jaggery, jewellery, oil seeds, paper, plastic products (HDPE granules), pulses & grams, raw rubber, stainless steel, timber & bamboos and vegetable oils.

It was noticed in 10 assessment circles that exemption was allowed during the years 2000-01 to 2002-03 on a turnover of Rs.3,939.69 crore involving tax of Rs.182.32 crore without ascertaining the earlier sufferance of tax though these were evasion prone commodities as detailed below:

(Rupees in crore)

Sl. No.	Name of the assessment circle	Commodity	Exempted turnover	Amount of tax involved
1	Periamet	Hides & Skins	485.44	16.10
2	Periya Agraharam, Erode	Hides & Skins	102.30	3.78
3	Ambur	Hides & Skins	97.61	3.17
4	Harbour III	Iron & Steel	1,713.65	68.55
5	Park Town-II	Iron & Steel	575.13	23.00
6	Ram Nagar, Coimbatore	Iron & Steel	301.08	12.04
7	Loansquare-I	Paper	114.33	9.62
8	Loansquare-II	Paper	492.11	41.21
9	Tamilsangam Salai, Madurai	Paper	29.38	2.44
10	Choolai	Timber & Paper	28.66	2.41
Total			3,939.69	182.32

Cross verification of transactions of evasion prone commodities in audit revealed non levy of tax of Rs.2.17 crore in 43 cases as detailed below:

- In seven[4] assessment circles, the assessing authorities, while finalising assessments of 28 dealers for the years 1999-2000 to 2002-03 between May 2001 and March 2004, allowed exemption on a turnover of Rs.7.55 crore either as second sales of dressed hides, timber, cotton yarn and iron scrap or as not being last purchase of raw hides. It was, however, noticed that the said purchases/sales were effected from/to dealers whose registration certificates were cancelled even prior to the period of transaction or the registration certificate numbers of the dealers from whom the purchases were made were either not related to the said dealers or were not assigned to any of the dealers in the concerned assessment circles. The incorrect allowance of exemption without cross verification of earlier sufferance to tax resulted in non levy of tax of Rs.31.91 lakh.

After this was pointed out, the Department revised the assessment in one case and raised additional demand of tax of Rs.5.54 lakh including penalty; the collection particulars of which are awaited.

- In seven[5] assessment circles, the assessing authorities, while finalising the assessments of 19 dealers for the years 1999-2000 to 2002-03 between April 2001 and May 2004, allowed exemption on a turnover of Rs.48.18 crore on the ground that the corresponding purchases of leather, iron and steel and timber were effected from 15 dealers of five[6] assessment circles. Cross

---

4 Ambattur, Dindigul-III, Gudiyatham (West), Peria Agraharam (Erode), Periamet, Ranipet and Vaniyambadi.

5 Harbour I, Periamet, Rajapalayam, Shencottah, Tambaram-I & II and Vaniyambadi.

6 Ayanavaram, Harbour-III, Periamet, Shengottah and Vepery.

verification of the records of these 15 dealers, however, revealed that turnover of only Rs.17.42 crore had been accounted for by them. Thus, turnover of Rs.30.76 crore escaped assessment, involving tax of Rs.1.85 crore including penalty of Rs.0.62 crore.

Trend of disposal of cross check references

2.2.8 According to the instructions of CCT issued in November 1996, a time limit of two months was prescribed for disposal of CCRs.

The trend of issue and disposal of CCRs in respect of 56[7] assessment circles during the period from 2001-02 to 2003-04 is given as under:

(Rupees in crore)

Year	2001-02		2002-03		2003-04	
	Items	Amount	Items	Amount	Items	Amount
Opening Balance	2,946	138.18	2,719	110.75	3,003	143.93
Receipts	3,780	115.52	2,972	180.28	2,838	167.65
Total	6,726	253.70	5,691	291.03	5,841	311.58
Disposal	4,007	142.95	2,688	147.10	2,616	155.61
Closing Balance	2,719	110.75	3,003	143.93	3,225	155.97
Percentage of disposal of items	59.57		47.23		44.79	

It could be seen from the details furnished that there was a decreasing trend in disposal of CCRs during the years 2001-02 to 2003-04. Non disposal of CCRs within the stipulated period of two months resulted in accumulation of CCRs.

After this was pointed out, the Department stated that CCRs could not be disposed of due to non receipt of accounts from concerned dealers.

Cross verification of 45 pending CCRs with registers/records available in the assessment circles revealed that the exemption allowed was not in order, as in some cases, the registration certificates had been cancelled even prior to the

---

7 Attur (Rural), Arisipalayam, Avarampalayam, Avinashi Road (Coimbatore), Chithrakkara Street, Chengleput, Choolai, Devakkottai, Dr.Nanjappa Road, Esplanade-II, Gudiyatham (East & West), Jayamkondam, Karur (South), Kovilpatti-I & II, Kuzhithurai, Loan square I & II, Mettupalayam Road, Moore Market North, N.H. Road, Oppanakkara Street, P.N.Palayam, Paramakudi, Peddanaickenpet (North), Park Town-II, Park Road (Erode), Podanur, Ram Nagar, Sai Baba Colony, Sathy Road (Erode), Salem Town (North), Sattur, Senkottai, Sivakasi-I, II & III, Sriperumbudur, Tiruppur (Kongu Nagar, Rural, Bazaar, Central-I & II, North, South, Lakshmi Nagar) Tambaram I, Tamil Sangam Salai, Tenkasi, Tindivanam, Tirukoilur, Trichy Road, Virudhu Nagar I, II & III.

date of transaction. In other cases, the registration certificate numbers, from whom the purchases were stated to have been made, were either not related to the said dealers or were not assigned to any of the dealers in the concerned assessment circle. This verification did not require check of accounts of the dealers, and, therefore, the reason of non receipt of accounts cited by the Department for non disposal of inward references is not tenable.

Cross verification of consignment sales to other States

2.2.9 Under the provisions of Central Sales Tax Act, 1956, (CST Act) where any dealer claims that he is not liable to pay tax under this Act in respect of any goods on the ground that the movement of such goods from one state to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer. For this purpose the dealer shall produce a declaration in Form 'F' duly filled and signed by principal officer of the other place of business or his agent or principal as the case may be. In case of disallowance of exemption, in addition, the assessing authority shall also levy penalty depending on the percentage of difference between tax assessed and paid as per returns.

Cross verification of genuineness of the claim of exemption against declaration forms on the sale of cardamom by 18 dealers in Bodinayakanur and Uthamapalayam assessment circles with the records of purchasing dealers at Delhi, Gujarat, Uttar Pradesh and Andhra Pradesh revealed that exemption allowed on a turnover of Rs.100.06 crore during the years from 1999-2000 to 2003-04 on the basis of declarations in Form F was not in order as the consignees were either found to be unregistered dealers in other states or the declaration forms were found not to have been issued by the concerned sales tax authorities of other states to those dealers. Some transactions of consignment sales of cardamom were found to be not genuine by ISIC based on references made to it by Uthamapalayam assessment circle; however no such reference was made by Bodinayakanur assessment circle, though both the circles are under the jurisdiction of the same territorial AC. The assessing authority had, thus, failed to detect the use of these invalid forms and refer the cases to ISIC for investigation. This resulted in non levy of tax of Rs.24.96 crore, including penalty of Rs.14.98 crore.

After this was pointed out, the Department accepted in April 2005, the audit observation in respect of consignment sales as having been effected to dealers in Delhi who had closed their business prior to the period of transaction. In other cases, it was stated that filing of Form 'F' was not mandatory and exemption was allowed after verification of other documentary evidence such as copy of agreements, way bill, sales pattials[8], etc. and reopening of assessment is not possible except on limited grounds such as fraud, collusion, misrepresentation or suppression of material facts or giving false particulars.

[8] These refer to the details containing quantity and value of goods sold by a dealer in another State out of the stock received against Form 'F'.

The reply is not tenable as declarations in Form 'F' utilised to avail exemption in these cases were either invalid or bogus as certified by the sales tax authorities at the other end.

Conclusion

2.2.10 Despite the recommendations/suggestions of the PAC, cross verification of transactions has not been given due importance as is evident from large scale omission to issue cross check references and delay in disposal of cross check references, etc. Proper monitoring of the system of issue/disposal of cross check references has not been done.

The matter was reported to the Government in May/June 2005. Reply of the Government is awaited (September 2005).

2.3. Concessions/Exemptions against declaration forms

The TNGST Act provides for concessional rate of tax of three *per cent* on sale of any goods to another dealer, for use by the latter in the manufacture of any goods for sale inside the State, subject to the filing of declaration obtained from the purchaser and conditions prescribed therein. The Act also provides for concessional rate of tax on sale of goods specified in the eighth schedule to the Act, for installation in factory premises and use in manufacture of goods.

Under the CST Act, registered dealers are eligible for certain exemptions and concession of tax, on inter state sales, on the strength of prescribed declarations such as Forms 'C', 'H' etc.

Incorrect grant of concessional rate of tax

2.3.1 The concessional rate of tax under TNGST Act is not admissible for sale to unregistered dealers, sale of declared goods[9], manufacture of goods falling under Part A/Third Schedule to the Act, and sale of goods not mentioned in the eighth schedule to the Act.

- In six[10] assessment circles, while finalising assessments of six dealers for the years 1999-2000 to 2002-03 between October 2000 and March 2004, concessional rate of tax was erroneously allowed on sale turnover of Rs.1.33 crore made to unregistered dealer in one case, ineligible units/goods in four cases and declared goods in one case. This resulted in short levy of tax of Rs.6.42 lakh.

After this was pointed out, the Department revised the assessment in the case of Kongunagar assessment circle and recovered additional demand of Rs.2.74 lakh. The reply of the Department in the case of Podanur assessment circle

9 Goods declared under Section 14 of the CST Act as goods of special importance in inter state trade or commerce.

10 Dindigul-I, Kongunagar, Koyambedu, Podanur, Sivakasi-I and Srirangam.

that the commodity sold is machinery spares is not tenable in view of classification of the item as iron castings under Central Excise Tariff Entry. Reply in respect of the other cases is awaited (September 2005).

- In Tirumangalam assessment circle, the assessing authority while finalising assessment of a dealer for the years 1998-1999 to 2002-03 between July 2001 and December 2003, allowed concessional rate of tax on a turnover of Rs.5.29 crore as representing sale of paper board effected against declarations in Form XVII. Cross verification in audit, however, revealed that the declarations filed in respect of the turnover of Rs.3.68 crore were invalid as the purchasers were either non existent or the declarations were found not to have been issued from the concerned assessment circles. In four cases, the official seal affixed on declarations in form XVII did not relate to any of the assessment circles in the State. The allowance of concessional rate of tax on the strength of these invalid declarations resulted in short levy of tax of Rs.19.80 lakh.

Non levy of differential rate of tax

2.3.2 According to the provisions of the TNGST Act, where the goods purchased at concessional rate are not used for the purpose specified in declaration/or disposed of in any other manner within a period of five years, the purchaser shall pay tax on the turnover relating to sale of such goods at prescribed rate after adjustment of concessional tax already paid. It has been judicially held[11] that the processes of conversion of raw edible oil into refined oil, boulders into jellies and ordinary water into packaged drinking water does not involve manufacture.

In seven[12] assessment circles, the assessing authority while finalising the assessments of eight dealers for the years 1999-2000 to 2002-03 between April 2001 and April 2004, omitted to levy differential rate of tax of Rs.53.74 lakh for failure to use the goods[13] purchased at concessional rate in manufacture, or for disposal of the goods within five years of purchase.

After this was pointed out in audit, the Department revised the assessment in respect of Korattur in May 2004 and levied tax and penalty of Rs.0.97 lakh. The appeal filed against the revision of assessment is pending before the Appellate Assistant Commissioner. Reply in respect of the other cases is awaited (September 2005).

---

11 Tungabadra Industries Ltd. Vs. CTO – 11 STC P.827 (SC)
Teejan Beverages Ltd. Vs. State of Kerala – 131 STC P.539.
State of Maharashtra Vs. Mahalaxmi Stores – 129 STC P.79 (SC)

12 Chingleput, Dindigul (Rural), Korattur, Kilpauk, Perur, R.S.Puram(West) and Sriperumbudur.

13 Air compressor moulds, cartons, chemicals, consumables, machinery, packing material, etc.

Incorrect grant of exemption on sale to exporters

2.3.3 Under Section 5(3) of the CST Act, the last sale or purchase occasioning the export of goods out of the territory of India is also deemed to be in the course of export, if such last sale or purchase took place after and was for the purpose of complying with the agreement or order for or in relation to such export. The exemption is subject to the filing of declaration in Form 'H' duly filled in and signed by the exporter along with the evidence of export of such goods.

In three[14] assessment circles, the assessing authority while finalising the assessment of five dealers for the assessment year 2000-01 between September 2001 and March 2003, allowed exemption on a turnover of Rs.1.47 crore, even in the absence of declaration in Form 'H' and other documents evidencing export of the goods. This resulted in non levy of tax of Rs.14.95 lakh.

After this was pointed out, the assessing authority stated in one case that as per clarification of the Commissioner, foreign buyer's order need not be insisted. The clarification of the CCT is not in consonance with the provisions of CST Act, which provides for exemption only in cases of sale to exporters being made for the purpose of complying with the pre-existing order of the foreign buyer. Reply of the Department in respect of the other cases is awaited (September 2005).

The matter was reported to the Government in May 2005; their reply is awaited (September 2005).

Incorrect grant of exemption on transit sales

2.3.4 Section 6(2) of the CST Act provides that sale effected by transfer of documents of title to goods during the course of inter state movement of goods from one state to another shall be exempt from levy of tax. The claim of exemption should be supported by EI/EII certificates obtained from the selling dealer and declaration in Form 'C' furnished by the purchaser. The subsequent sale of such goods in the state is liable to tax as first sales inside the State.

Cross verification of transactions pertaining to the period 2001-02 and 2002-03 finalised between April 2003 and March 2004 revealed incorrect grant of exemption/short/non accounting of purchases, etc. involving tax of Rs.1.30 crore including penalty of Rs.40.03 lakh as detailed below:

- The goods, viz., paper board purchased on transit sales by utilising 61 declarations in Form'C' were not accounted for by three dealers of Tambaram-I and Vallalarnagar assessment circles. This resulted in

14 Ambattur, Hosur (North) and Tiruppur (Rural).

suppression of deemed sales turnover[15] of Rs.7.91 crore involving tax of Rs.94.97 lakh, including penalty of Rs.31.66 lakh.

- In Vallalar Nagar assessment circle, a dealer effected transit purchases of paper amounting to Rs.2.13 crore but accounted for Rs.22.98 lakh only. This resulted in suppression of deemed sales turnover of Rs.2.09 crore involving tax of Rs.25.10 lakh, including penalty of Rs.8.37 lakh.

- In respect of exemption allowed on a turnover of Rs.94.77 lakh, pertaining to seven dealers in three[16] circles, declarations in Form 'C' furnished in support of the transaction, were found to be invalid. The exemption allowed on the turnover was therefore not in order and the transaction is to be assessed to tax as inter state sales, involving tax of Rs.9.48 lakh.

Cross verification of inter state sales against 'C' forms

2.3.5 According to the provisions of the CST Act, interstate sale of goods covered by declarations in Form 'C' is assessable to tax at the concessional rate of four *per cent.*

In Annasalai-I and Jayamkondan assessment circles, while finalising assessments of two dealers for the year 2000-01 in September 2002, exemption/concessional rate of tax was allowed on a turnover of Rs.89.53 lakh as covered by declarations in Form 'C.

Cross verification in audit of declarations in Form 'C' furnished by dealers in Pondicherry revealed that three dealers were non existent and one dealer had utilised Form 'C' issued to another dealer. Incorrect grant of exemption/concessional rate on the strength of these forms resulted in non/short levy of tax of Rs.9.92 lakh.

After this was pointed out, the assessing authority of Annasalai-I assessment circle agreed to revise the assessment. Reply in respect of the other case is awaited (September 2005).

The matter was reported to Government in May 2005; their reply is awaited (September 2005).

2.4 Incorrect grant of exemption from levy of tax

The TNGST Act provides for exemption of sales tax on certain commodities listed in the Third Schedule to the Act, like fresh milk and sale of blood and

15 Deemed sales turnover is calculated by the addition of normal gross profit to the purchase turnover.

16 Harbour-I, Kothawalchavadi and Loansquare-II.

blood plasma by hospitals. The CCT clarified[17] in May 2001 that sale of hot milk in parlours is taxable at the rates mentioned in Ninth Schedule.

Cylinder holding charges are liable to tax as judicially held[18] by Tamil Nadu Taxation Special Tribunal (TNTST). Further as per Government notification of April 1998, sale of raw materials, packing materials and consumables to 100 *per cent* export oriented unit (EOU) are exempted.

Test check of records of four[19] assessment circles revealed that the assessing authorities, while finalising the assessments of four dealers for the years 1999-2000 to 2002-2003 between July 2002 and March 2004, erroneously allowed exemption on the turnover of Rs.2.71 crore relating to sale of hot milk in parlours, cylinder holding charges, sale of gloves and disposable caps to 100 *per cent* EOU and sale of blood and blood plasma by a dealer in medicine and surgical goods. This resulted in non levy of tax of Rs.7.72 lakh.

After this was pointed out in audit, the Department revised the assessments in cases of Esplanade II, Thallakulam and Podanur in December 2004 and June 2005 and raised an additional demand of Rs.2.84 lakh. It was further stated that the appeal filed against the revision of assessment was pending in respect of Thallakulam case, and an amount of Rs.1.54 lakh was collected in respect of other case. Final reply of the Department in respect of other cases is awaited (Septmeber 2005).

The matter was reported to Government between September 2004 and April 2005. The Government accepted the audit observation pertaining to Esplanade II, Podanur and Thallakulam assessment circles. Reply of the Government in respect of other cases is awaited (September 2005).

2.5 Application of incorrect rate of tax

Under the provisions of the TNGST Act, tax is leviable on sale of goods at the rates and at the points specified in the Schedules to the Act.

According to the provisions of CST Act, tax is leviable on inter state sale of goods, not covered by declarations in Form 'C', at 10 *per cent* or at the rate applicable to sale of such goods within the state, whichever is higher.

In six[20] assessment circles, while finalising the assessments between May 2002 and March 2004, tax was levied short due to application of incorrect rate of tax on a turnover of Rs.44.65 crore during the years 1994-95 to 2002-03

17 Acts Cell No.D.Dis.3965/2001 dated 22.5.2001.

18 Indian Oxygen Ltd. Vs. State of Tamil Nadu – 122 STC P.288 (TNTST).

19 Esplanade-II, Podanur, Nagercoil (Tower Junction) and Thallakulam.

20 Nandanam, Palacode, Pollachi (West), Ramanathapuram, Suramangalam and Thudiyalur.

pertaining to eight dealers. The short levy of tax works out to Rs.5.24 crore. A few cases are illustrated below:

(Rupees in lakh)

<table>
<tr><th rowspan="2">Sl. No.</th><th rowspan="2">Assess-ment circle (No. of dealers)</th><th rowspan="2">Year of transaction (Month/ year of assessment)</th><th rowspan="2">Commodity</th><th rowspan="2">Tax able turn over</th><th colspan="2">Rate of Tax (per cent)</th><th rowspan="2">Amount short levied</th></tr>
<tr><th>Appli cable</th><th>App-lied</th></tr>
<tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td></tr>
<tr><td>1</td><td>Nanda-nam Thudiya lur (2)</td><td>2002-03 (July 2003, February 2004).</td><td>Sweets and savouries sold under a brand name</td><td>2,951.80</td><td>16</td><td>2</td><td>431.41</td></tr>
<tr><td colspan="8">Remarks: After this was pointed out in audit in September 2004 and January 2005, the Department replied that the goods are not covered by any registered trade mark and hence are not branded and quoted a clarification of the Commissioner issued in May 2004 that the commodity is taxable at compounded rate of two per cent applicable to sale of unbranded sweets. The Department further contended that "Sri Krishna Sweets" is the name of the business of the dealer and is not a brand name since it is not inscribed on the products. The reply is not tenable as the entry in the First Schedule to the TNGST Act, does not require registration of brand name for levy of tax at 16 per cent on sale of sweets. The sweets have been sold in packages with the name of "Sri Krishna Sweets" inscribed within a distinct oval emblem. Further the sweets and savouries manufactured and sold by the dealer are identified by the public with the name "Sri Krishna Sweets" and the sale is exigible to tax as branded sweets and savouries. Further reply is awaited (September 2005).</td></tr>
<tr><td>2</td><td>Pollachi (West) (1)</td><td>2001-02 (April 2003)
2002-03 (March 2004)</td><td>Sale of food and drinks effected in restaurant attached to Star Hotel</td><td>34.40
33.40</td><td>8
10</td><td>Rs.36,000/- Compounded amount</td><td>5.37</td></tr>
<tr><td colspan="8">Remarks: After this was pointed out in September 2004, the Department contended that the hotel which was accredited with star status and the restaurant are two different entities and that supply of food and drinks was not restricted to the occupants of the hotel. The Department further referred to a judicial decision[21] of the Kerala High Court, according to which, where the lodge and the restaurant are separate entities and the facilities required are not provided by the lodge, tax is leviable only on the restaurant. The reply is not tenable in view of the specific provisions of the TNGST Act, whereby sale of food and drinks effected by a restaurant attached to a star hotel is assessable to tax at the rates mentioned in entry 29 of Part C of the First Schedule to the Act.</td></tr>
</table>

After this was pointed out in audit, the Department revised assessments in respect of four cases and raised an additional demand of Rs.54.09 lakh. Report on recovery and reply in respect of Palacode assessment circle for assessment years 1995-96 and 1996-97 is awaited (September 2005).

[21] State of Kerala Vs. Hotel Amrutha – 120 STC P.28 (Kerala).

The matter was reported to Government between December 2004 and March 2005. Government accepted the audit observations in respect of cases pertaining to Ramanathapuram (imported machinery), Suramangalam (deemed sale of paint), Nandanam (fibre pillows and petrol additive) and Pollachi West (sale of food and drinks). Reply in respect of other cases has not been received (September 2005).

2.6 Non levy of surcharge

Under the provisions of TNGST Act, surcharge at the rate of five per cent on the amount of tax shall be levied with effect from 1 July 2002.

In Palani-II and Tondiarpet assessment circles, during finalisation/revision of the assessments of four dealers for the year 2002-03 in April 2003 and March 2004, surcharge on the tax amount of Rs.1.90 crore was omitted to be levied. This resulted in non levy of surcharge of Rs.9.48 lakh.

After this was pointed out in audit in July and December 2004, the Department revised the assessment in one case and collected the additional demand of Rs.1.61 lakh in July 2004. Reply in respect of other cases is awaited (September 2005).

The matter was reported to the Government in December 2004. Government accepted the audit observation in respect of Tondiarpet. Reply in respect of the other case is awaited (September 2005).

2.7 Non/Short levy of additional sales tax

According to the provisions of the Tamil Nadu Additional Sales Tax Act, 1970, (TNAST Act) every dealer, whose taxable turnover for a year exceeded Rs.25 crore was liable to pay additional sales tax at the prescribed rate on such turnover, with effect from 1 April 1998. By a notification issued in November 2001, taxable turnover limit for levy of additional sales tax was reduced to Rs.10 crore. Rule 5(2) of the Tamil Nadu Additional Sales Tax Rules, 1970 prescribed that the additional sales tax payable by the dealer shall be assessed by the assessing authority as soon as possible after the assessment under the TNGST Act is finalized, indicating that the levy is on the annual taxable turnover. The Madras High Court has also observed[22], that additional sales tax is a levy on the annual turnover of the assessee and accordingly, dealers, whose taxable turnover exceeded Rs.10 crore during the year 2001-02, were liable to pay additional sales tax.

22 Phillips India Ltd. Vs. AC(CT) & Others – 137 STC P.134 (Madras)

In 55[23] assessment circles, while finalising the assessments of 86 dealers between September 2002 and March 2004, though the taxable turnover for the year 2001-02 was determined in excess of Rs.10 crore, additional sales tax was levied only on the taxable turnover from 1 November 2001. This resulted in non/short levy of additional sales tax of Rs.6.71 crore.

After this was pointed out in audit between October 2004 and April 2005, the Government replied in May 2005, that the notification prescribing the turnover limit of Rs.10 crore for levy of additional sales tax came into effect from 1 November 2001 only, and that the assessment made was in accordance with the clarification issued in February 2002 by the CCT, that where the taxable turnover of a dealer exceeds Rs.10 crore during the assessment year 2001-02, additional sales tax shall be attracted on the taxable turnover from 1 November 2001. It was also mentioned therein that the assessment was also in accordance with the judicial decision[24] and liability towards additional sales tax can be fastened on the taxable turnover accrued on or after 1 November 2001.

The reply is not tenable as additional sales tax, being a levy of aggregate of sales turnover, the amount, thereof, should be the same for all assessees having the same and identical taxable turnover during a year. The judicial decision quoted by the Government was rendered with reference to the provisions of TNAST Act, as prevailing during the year 1996-97, where there were two charging sections for levy of additional sales tax and is, therefore, not applicable to the present case. The applicability of the taxable turnover limit of Rs. 10 crore for levy of additional sales tax from 1 November 2001, would result in discrimination between dealers on the basis of their taxable turnover upto and after 31 October 2001, which would not be in order, more so, when assessment is made under the same charging section.

---

23 Adyar-I, Aruppukottai, Avarampalayam, Avinashi, Avinashi Road (Coimbatore), Chingleput, Cuddalore Taluk, Dharapuram, Dindigul (Rural), Dr.Nanjappa Road (Coimbatore), Egmore-I, Egmore-II, Esplanade-II, Gobichettipalayam, Guindy, Ice House, Kancheepuram, Kangeyam, Kongunagar, Koyambedu, Kovilpatti-I, Luz, Madurai (Rural) (South), Mandaveli, Mettur Road, Mettupalayam, Mettupalayam Road (Coimbatore), Nagercoil (Rural), Nilakottai, Omalur, Palani-II, Perambur-II, Periamet, Perundurai, Porur, P.N.Palayam (Coimbatore), Pudukottai, Rajapalayam-I, R.G. Street Circle (Coimbatore), Salem Bazaar, Saligramam, Sathyamangalam, Tambaram-I, Theni-I, Thudiyalur (Coimbatore), Tindivanam, Tirumangalam, Tirunelveli (Town), Tiruparamkundram, Tiruvanmiyur, Trichy Road (Coimbatore), Vadapalani-II, Valluvarkottam, Virudhunagar-I and II.

24 Apex Laboratories (P) Ltd. & others Vs. State of Tamil Nadu – TNSTAT (MB), Chennai.

2.8 Erroneous waiver of tax under Samadhan Scheme and consequent non levy of interest

The Tamil Nadu Sales Tax (Settlement of Disputes) Act, 2002, otherwise known as Samadhan Scheme, was introduced for expeditious settlement of disputes relating to arrears of tax, penalty or interest pertaining to sales tax. Under the provisions of the scheme, an applicant may make an application for settlement of arrear of tax, penalty or interest in dispute in respect of any period for which an assessment has been made under the relevant Act-

- against which an appeal or revision was filed on or before 28 February 2002 before any appellate or revisional authority and pending before such authority.

- an applicant shall not be eligible to make an application for settlement of arrear of tax, penalty or interest in dispute in respect of any period for which the appeal or revision has been finally heard by the appellate or revisional authority.

- the rate applicable in determining the amount payable under samadhan scheme ranged between 15 and 50 *per cent* of tax, penalty, interest etc. in dispute depending upon the nature of dispute.

In Sankarankoil assessment circle, an assessee (a private sugar mill) was assessed to tax on purchase of sugarcane and on various subsidies/incentives given to cane growers in respect of assessment years 1989-90, 1990-91 and 1993-94 between February 1993 and February 1998. The dispute regarding payment of tax on purchase of sugarcane was resolved by the Madras High Court[25] in November 2001 . The tax levied on subsidies/incentives was in dispute and pending before Sales Tax Appellate Tribunal, Madurai. Hence, only this was eligible for waiver under the Samadhan Scheme.

It was, however, noticed in audit that the tax payable on purchase of sugarcane was also considered as disputed arrears and certificate of settlement was issued in May 2003 to the assessee in respect of assessment years 1989-90, 1990-91 and 1993-94 without restricting the waiver to the tax on subsidies/incentives which was in dispute. This resulted in erroneous waiver of tax of Rs.83.80 lakh besides interest.

[25] Dharani Sugars & Chemicals Ltd. Vs. CTO Sankarankoil & Others - 128 STC P.555 (Madras) upholding the decision rendered in 115 STC P.370 (TNTST)

After this was pointed out in March 2004 and January 2005, the Department replied that second appeal filed by the dealers was pending before the Sales Tax Appellate Tribunal, Madurai and, as such waiver was in order. The Department further contended that pendency of appeal before appellate authority was the only criterion for settlement of tax under the Samadhan Scheme, and as a result of settlement of arrears under the Scheme, further interest was not leviable.

The reply is not tenable as the dispute regarding deferral of purchase tax was already confirmed by the Madras High Court in favour of revenue. Further, the period of deferral, being four years from 1989-90, the assessee was not at all eligible for deferral in respect of assessment year 1993-94. The Samadhan Scheme only provided for settlement of arrears in dispute, and not for arrears of tax in respect of which the dispute was already decided by a legal forum. The case in question was therefore, not eligible for settlement under the Scheme.

The matter was reported to the Government in April 2005. Government accepted the audit observation subject to the outcome of writ petition filed by the dealer.

2.9 Non levy of interest for belated payment of tax

According to the provisions of TNGST Act, tax payable shall become due without any notice of demand to the dealer on the date of receipt of return or on the last due date as prescribed, whichever is later. On any amount remaining unpaid after the date specified for its payment, the dealer or person shall pay, in addition to the amount due, interest at two *per cent* per month of such amount for the entire period of default. The provisions relating to interest on belated payment of tax under TNGST Act shall apply in respect of interest leviable under the CST Act.

In Nagercoil (Rural) and Srivilliputhur assessment circles, three dealers, whose assessments for the years 1992-93 and 2002-03 were finalised between June 2002 and December 2003 paid the tax belatedly, with delay ranging from 29 days to 48 months and 12 days, for which interest amounting to Rs.5.29 lakh, though leviable, was not levied.

After this was pointed out between March and November 2004, the Department levied interest of Rs.5.29 lakh between September and December 2004, of which an amount of Rs.1.98 lakh in two cases has been collected. In another case, the dealer is stated to have filed writ petition against the levy of interest. Reply of the Department in respect of the other case is awaited (September 2005).

- Vide an order issued in September 1988 by the Industries Department, sugar mills were allowed deferral of tax on purchase of sugarcane from reserved areas, for a period of four years from the commencement of

commercial production. The deferral was subject to a ceiling of Rs.4.40 crore for the four year period, with an annual ceiling of Rs.1.25 crore. The deferred amount was to be repaid after the period of deferral, without interest. The deferral was also subject to the condition that any delay in payment would attract interest under the normal provisions of the TNGST Act.

In Sankarankoil assessment circle, an assessee, (a private sugar mill) was assessed in November 1992 to tax of Rs.1.96 crore on purchase of sugarcane for the year 1991-92 and the entire amount of Rs.1.96 crore was mentioned in the assessment order as being covered by deferral. This is not in order; as the amount of deferral is subject to the annual ceiling of Rs.1.25 crore. The appeal filed by the assessee seeking concession of waiver was set aside in June 1999 by the TNTST, which was also confirmed by the Madras High Court in November 2001. Accordingly, the amount of Rs.1.25 crore had to be repaid after the expiry of the period of deferral and the balance amount of Rs.0.71 crore along with the monthly returns.

It was, however, noticed in audit that the amounts were paid belatedly by the dealer, the delay ranging from 40 months and 10 days to 72 months and 21 days, for which interest amounting to Rs.2.03 crore was leviable, but was not levied.

After this was pointed out, the Department replied in July 2004, that the assessment was settled under the Tamil Nadu Sales Tax (Settlement of Disputes) Act, 2002 (Samadhan Scheme) in May 2003, and hence no further interest was leviable.

The reply is not tenable as tax of Rs.48.74 lakh including penalty of Rs.32.13 lakh on subsidies alone was under dispute and covered under the appeal. There was no dispute regarding the payment of tax on purchase of sugarcane on the date of filing of application for settlement of arrears under the Samadhan Scheme. The belated payment of purchase tax therefore, attracts levy of interest.

The matter was reported to the Government between September 2004 and April 2005. The Government accepted the audit observation in respect of Nagercoil (Rural) assessment circle. Reply of the Government in respect of the other cases is awaited (September 2005).

2.10 Delay in revision of assessment

According to the provisions of the TNAST Act, additional sales tax at the rate of 1.5 *per cent* of the taxable turnover was leviable, where the taxable turnover of a dealer for the year 2000-2001 exceeded Rs.25 crore but did not exceed Rs.50 crore. As per the proviso to the said Section, in respect of declared goods, the levy is subject to the condition that the aggregate of sales tax and additional tax shall not exceed four per cent of the sale of such goods.

In Egmore I assessment circle, though the assessing authority issued notice in January 2002 proposing levy of additional sales tax of Rs.16.24 lakh, worked out at the rate of 1.5 *per cent* on a turnover of Rs.10.83 crore, which was omitted at the time of finalisation of assessment, no follow up action was taken thereon for more than two years. This is indicative of lack of system to ensure that all cases of issue of prerevision notices are duly acted upon, without any omission.

After this was pointed out in audit in July 2004, the Department revised the assessment in December 2004 and raised an additional amount of Rs.16.24 lakh; the collection particulars of which are awaited (September 2005).

The matter was reported to the Government in October 2004. The Government accepted the audit observation.

CHAPTER III

LAND REVENUE

3.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2004 to March 2005 revealed under assessment, etc. amounting to Rs.622.27 crore in 122 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1	Short recovery of value and rent in respect of land assigned, alienated or encroached	4	0.10
2	Non levy of penalty/interest	2	0.18
3	Others	114	75.55
4	Review on **Receipts from leasing of Government lands**	1	526.40
5	Administration of Revenue Recovery Act	1	20.04
	Total	**122**	**622.27**

During the course of the year 2004-2005, the Department accepted under assessment etc., amounting to Rs.97.20 lakh in 79 cases, out of which Rs.0.07 lakh in respect of one case was pointed out during the year and the rest in earlier years.

A review on **Receipts from leasing of Government lands** and a few illustrative cases involving a financial effect of Rs.526.82 crore are mentioned below:

3.2 Review: Receipts from leasing of Government Lands

Highlights

- **Failure to lease Government lands in three cases, resulted in loss of revenue of Rs.6.31 crore, of which Rs.3.55 crore was for the last five years.**

[Paragraph 3.2.6]

- **Non renewal of leases in 22 cases resulted in non levy of lease rent of Rs.33.68 crore, of which Rs.20.30 crore was for the last five years.**

[Paragraph 3.2.7]

- **Non revision of lease rent in eight cases resulted in non levy of lease rent of Rs.17.45 crore, of which Rs.10.72 crore was for the last five years.**

[Paragraph 3.2.8]

- **Short levy of lease rent in six cases resulted in short realisation of revenue of Rs.568.18 crore, of which Rs.477.51 crore was for the last five years.**

[Paragraph 3.2.9]

- **Non assignment and non/belated resumption of Government lands in respect of 35 cases and non collection of lease rent resulted in non realisation of revenue of Rs.300.72 crore, of which Rs.296.06 crore was for the last five years.**

[Paragraph 3.2.10]

Recommendations

The Government may consider the following:

- follow the systems already envisaged and evolve a mechanism to monitor the status of leases periodically at all levels and

- constitute a team as suggested by CLA in September 1996 for proper monitoring.

Introduction

3.2.1 Under the provisions of Revenue Standing Order (RSO) 24-A, Government lands are leased out to individuals, private organisations, trusts, companies and other Government bodies for a specified period with certain conditions. The district administration is required to take action for fixation of lease rent, terms of lease, execution of lease deeds and renewal of lease or resumption of land, wherever necessary.

Lease rent, once fixed is to be revised once in three or five years as the case may be. The details of lease rent are given below:

(figures in percentage)

Area	Purpose of utilisation of land	Lease rent	Local cess	Local cess surcharge
Panchayat Areas				
Before 4 June 1998	Non commercial purpose	7	7	35
	Commercial purpose	14	14	70
After 4 June 1998	Non commercial purpose	1	1	5
	Commercial purpose	2	2	10
		Lease rent	**Additional surcharge on lease rent**	
Municipal Areas	Non commercial purpose	7	13	
	Commercial purpose	14	13	

Organisational set up

3.2.2 The Department is administered by the Special Commissioner and Commissioner of Land Administration (CLA), who is assisted by the Collectors at the district level. The district collectors are assisted by the territorial tahsildars at the taluk level who are empowered, in respect of Government lands, to inspect, propose, revise and collect lease rentals with reference to RSOs and Government orders (GOs) issued from time to time

Scope of audit

3.2.3 To examine the efficiency in overall administration of leasing of Government lands, fixation and collection of lease rent, records pertaining to the period from 1999-2000 to 2003-2004, in respect of 70 out of 209 taluks in 10[26] out of 29 districts, were test checked between July 2004 and January 2005.

[26] Chennai, Dharmapuri, Kancheepuram, Kovai, Krishnagiri, Madurai, Salem, Tiruvallur, Trichy and Vellore.

The findings were reported to the Government/Department in June 2005 with a request for attending the meeting of ARC so that the views of Government/ Department could be taken into account before finalising the review. The ARC meeting was held on 25 August 2005. This review has been finalised taking into account the Department/Government's view-point that emerged during the ARC meeting.

Audit Objectives

3.2.4 The review was conducted with a view to examine whether:

- the Department had streamlined the management of the leases of Government lands;
- adequate system exists for watching the realisation of revenue from Government lands leased out and
- there is any deficiency/lacuna in the system/rules on the subject.

Audit Constraint

3.2.5 In order to update data on leased lands in the state and to streamline management of leased lands, Special Commissioner and Commissioner of Land Administration proposed in September 1996 to set up a team for inspecting the lease registers and connected records in field office. The same has not been set up till date. The details regarding extent of land actually leased, the total amount realised as lease rent, lease rent realisable were not available with the Government. The above details were called for from the CLA as early as in August/October 2004 and followed by reminders in January/March 2005. The details are yet to be received (September 2005). The review was therefore conducted with reference to files made available to audit at taluk and district levels.

Non leasing of Gvernment lands

3.2.6 Under the provisions of RSO 24-A, Government land can be leased to individuals, private organisations, trusts, companies and other Government bodies for a specified period with certain conditions.

It was noticed in three[27] taluks that, Government land to an extent of 0.63 lakh sq. feet was encroached by three entities. The Department decided to regularise encroachment and proposals were sent between 1998 and 2003 to the Government for approval. The same have not yet been approved by the Government. This resulted in delay in realisation of revenue of Rs.6.31 crore, of which Rs.3.55 crore pertains to the last five years.

---

[27] Hosur, Madurai (North), Mylapore-Triplicane.

Non renewal of leases

3.2.7 According to standing instructions of the Government, the renewal proposal should be sent by district administration to the competent authority six months prior to the expiry of the existing lease.

- According to the details/information furnished by the Department out of 1,090 cases, renewal had been effected only in 165 cases as on 31 March 2004 throughout the state. In the remaining cases, the leases have not been renewed. The period in which these leases expired was not on record.

Out of these cases, 434 cases pertain to Chennai district, of which 215 cases are marginal leases including less than 50 sq.ft. of Government land, 131 and 47 cases involve less than a ground of land. These were pending with tahsildar and CLA respectively. The reasons for delay in renewal were not on record. Thirteen cases were pending in court. Further, in the remaining districts test checked, 144 cases are pending for renewal, out of which 18 cases are pending in court.

- In nine[28] taluks in respect of 22 cases involving an area of 9.03 lakh sq. ft., leases were not renewed in time and the delay ranged from two to 28 years. This resulted in non levy of lease rent amounting to Rs.33.68 crore, of which Rs.20.30 crore pertains to the last five years as detailed in Annexure I. It was, however, seen that out of these 22 cases, applications for renewal were not received from the lessees in five cases (Sl.No.6,7,8,9 and 17 of annexure I), proposals were not sent to the Government for approval in two cases (Sl.No.10 and 20 of annexure I) and in remaining 15 cases though proposals were sent to Government, renewal orders were awaited (September 2005). The records scrutinised in respect of all the 22 cases at all levels did not reveal any recorded reason for delay in renewal.

Non revision of lease rent

3.2.8 As per RSO 24-A, lease rent is to be revised once in three/five years. In seven[29] taluks, in respect of eight lease cases involving an area of 1.02 crore sq.ft., revision of lease rent was not made between 1987 and 2002, the delay ranging from three to 18 years. Out of these cases, in four cases revision proposals have not been sent by the Tahsildar, in the remaining four cases though the revision proposals were sent to Government, their approval was awaited (September 2005). The reasons for delay at all levels were not on record. This resulted in non levy of lease rent amounting to Rs.17.45 crore, of which Rs.10.72 crore pertains to the last five years. A few illustrative cases are given below:

[28] Ambattur, Coimbatore (South), Egmore-Nungambakkam, Fort-Tondiarpet, Madurai (North), Mambalam-Guindy, Mylapore-Triplicane, Purasawakkam-Perambur and Trichy.

[29] Ambattur, Chingleput, Dharmapuri, Madurai (South), Saidapet, Tambaram and Trichy.

(Rupees in crore)

Sl. No.	Name of the lessee	Area in Sq.ft.	Amount Total	Last five years	Remarks
1	2	3	4	5	6
1	M/s. Protec Ltd.	57,000	0.29	0.29	Lease rent has not been revised from 20 October 2002.
2	M/s.Madras Craft Foundations	4,36,700	3.65	2.97	Lease rent was fixed in 1995. However, the same was not revised from 1998 onwards.
3	M/s.Devasakayam Matric School	1,31,010	0.30	0.21	Lease rent has not been revised with effect from 9 June 1996.
4	M/s.Tamil Nadu Petro Products Ltd.	27,82,652	9.29	6.17	Lease rent has not been fixed from 1993 onwards.
5	M/s. SPIC Organic Chemicals Ltd.	19,02,702	3.59	0.97	Lease rent was not revised from 1989 onwards. Proposal for revision was sent only in April 2003.

Short levy of lease rent

3.2.9 Government, by an order (1998), reduced the rate of lease rent from seven/14 per cent of the market value for non commercial and commercial purposes respectively to one/two *per cent* of the market value in respect of lands situated in panchayat areas.

In four[30] taluks, in respect of six lease cases involving an area of 78.97 lakh sq.ft. situated in municipal/corporation area, besides revising the lease rent belatedly (the delay ranged between seven and 30 years), the department have adopted incorrect rates for computation of lease rent. This resulted in short levy of lease rent of Rs.568.18 crore, of which Rs.477.51 crore pertains to the last five years. The details are given below:

(Rupees in crore)

Sl.No.	Name of the lessee	Extent held in Sq.ft.	Amount involved Total	Last 5 years	Remarks
1	2	3	4	5	6
1	Madras United Club	52,136	2.35	1.53	Revision of lease rent for the period from 1993 to 2004 was made (February 2004) incorrectly by adopting the rate applicable to panchayat area instead of municipal/ corporation area. Further the demand for lease rent for the period from 1990 to 1993 was not raised.

30 Ambattur, Fort-Tondiarpet, Mambalam-Guindy and Mylapore-Triplicane.

1	2	3	4	5	6
2	Rane Engine Valves	3,588	1.18	1.00	Revision for the period from 1985 to 2004 was made (June 2004) incorrectly by adopting the rate applicable to panchayat area instead of municipal/ corporation area.
3	Tamil Nadu Cricket Association and Madras Cricket Club	7,48,453	8.26	8.26	Lease rent for the years from 1995 to 2004 was revised (March 2004) by adopting incorrect rate per square foot.
4	Gandhi Nagar Cricket Club	10,533	1.70	1.45	Revision of lease rent for the period from 1989 to 2004 was made (March 2004) by adopting incorrect rate per square foot.
5	Kalakshetra Foundations	63,709	3.84	3.28	Lease rent for the period from 1992 to 2004 was revised (January 2004) incorrectly by adopting the rate applicable to panchayat area instead of municipal/ corporation area.
6	Madras Race Club	70,19,287	546.85	456.99	As stated below the table.
	Total	78,97,706	568.18	477.51	

In Mambalam-Guindy Taluk, it was noticed that in respect of Madras Race Club (MRC) the lease was granted for 99 years from 1945. The lease rent was fixed at Rs.614-13-0 per annum. The lease rent was, however, not revised periodically eventhough the policy of the Government is to revise lease rent once in three or five years.

Further, when a supplemental lease deed was executed in 1977, the policy (Government Order issued in 1970) of adopting seven/14 per cent in respect of lease cases in Chennai was not considered for inclusion.

The lease rent for the period from 1974 to 2004 was revised in June 2004 against which the lessee filed an appeal in the Honourable High Court of Madras. The reasons for appeal were (i) the extent of land actually held by MRC and (ii) levy for the period from 1986 to 1996, during which the club was in Government's possession by passing of a separate Act. The Honourable High Court of Madras, set aside the order of June 2004 revising the lease rent in October 2004 and directed that if the Government want to pass orders by demanding higher lease rent from the petitioner, it is open to them to do so in accordance with law. The fact, however, remains that revision has not been made till date.

3.2.10 Non assignment and non/belated resumption of government lands

- As per Government Order dated 20 December 1966, if the encroachment is objectionable, the encroacher should be evicted and if the encroachment is unobjectionable the Government may consider assigning the lands on collection of land cost.

It was noticed in Tambaram taluk, 29 leases involving 27.54 lakh sq.ft.area in St.Thomas Mount village expired prior to 1963. The erstwhile Board of Revenue had suggested for resumption/assignment of lands in 1963 itself. The Government by an order issued in September 1994, ordered for regularisation of the leases either by resumption or by assignment with certain conditions. Even after 40 years from the date of order of Board of Revenue and 10 years from the date of order of the Government, no action has been taken, in these cases, resulting in land cost to the tune of Rs.281.74 crore (as per 2004 rate) not being realised till date. The details of lessees, extent held etc. are given in annexure-II.

- On the expiry of the lease period, lease is either to be renewed or the Government land is to be resumed. It was, however, noticed that in the following cases the Government lands were not resumed/resumed belatedly and the Government dues were not realised.

In five[31] taluks, in six leases involving an area of 14.92 lakh sq.ft. expired between February 1981 and June 2002, Government land was either not resumed or resumed belatedly. This resulted in non collection of lease rent of Rs.18.98 crore, of which Rs.14.32 crore was for the last five years as detailed below:

(Rupees in crore)

Sl. No.	Name of the lessee	Extent held (Sq. ft.)	Amount involved		Remarks
			Total	Last five years	
1	2	3	4	5	6
1	M/s. Sathya Studio	93,540	13.16	10.14	The land was ordered to be taken over in 1997. The lessee continues to be in possession of the land till date.
2	M/s.Tamil Nadu Distillery Limited (Alco Wines)	9,35,122	0.93	0.41	The land was ordered to be resumed in June 2002. The land was resumed only in January 2004 and lease rent upto the date of resumption is still due.

31 Fort-Tondiarpet, Mylapore-Triplicane, Krishnagiri, Tambaram and Trichy.

1	2	3	4	5	6
3	Police Club, Trichy	7,200	0.65	0.30	Though the lease period expired in February 1981, the land has not been resumed till date.
4	Thomas Educational and Charitable Trust	10,276	0.77	0.40	The land was resumed on 5 April 2004. Lease rent due for the period from June 1990 to April 2004 has not yet been collected.
5	Institute of Financial Management and Research	4,36,360	3.37	2.97	The lease of land was ordered to be resumed in May 2000. Lease rent due for January 1994 to May 2000 has not been collected.
6	K.Loganathan	10,000	0.10	0.10	The lease was not renewed for the period from 1998 to 2003 (upto the date of eviction) and lease rent was not levied and collected.
	Total	14,92,498	18.98	14.32	

Conclusion

3.2.11. There was no proper control or monitoring at any level to ensure prompt renewal of leases/revision of lease rent/levy of lease rent/resumption of Government lands, etc., as the case may be.

The matter was reported to the Department and Government in June 2005; their reply has not been received (October 2005).

3.3 Administration of Revenue Recovery Act, 1864

Introduction

3.3.1. The Revenue Recovery Act, 1864 (RR Act) was enacted to consolidate the law for the recovery of arrears of revenue in the erstwhile Madras Presidency. Under the provisions of the RR Act, whenever revenue may be in arrear, it shall be lawful for the Collector or other officer empowered by him in that behalf, to proceed to recover the arrear together with penalty and costs of process by sale of the defaulter's movable and immovable property or by execution against the defaulter in the manner prescribed.

Collector or any other officer empowered by him in this regard, on receipt of a request from the Government departments, local bodies, boards, corporations, banks and other institutions may order recovery of any sums due, as arrear of land revenue from the person declared as defaulter.

The Revenue Recovery Certificates (RRCs) received from the departments are processed by the Collectors and sent to respective tahsildars, after recording them in the RRC register.

Position of arrears

3.3.2 The arrears pending under RR Act for the period from 1999-2000 to 2003-04 is given below:

(Rupees in crore)

Year	Arrears
1999-2000	147.58
2000-2001	243.44
2001-2002	243.83
2002-2003	310.79
2003-2004	345.67

The above figures (excluding sales tax, urban land tax and land revenue) indicate that the arrears of revenue under RR Act is on the increase.

The position indicating progress of cases referred under RR Act during the last five years for the entire State is given below:

(Rupees in crore)

Sl. No.	Particulars		1999-00	2000-01	2001-02	2002-03	2003-04
1	Opening balance	Cases	31,680	32,565	33,333	33,082	35,393
		Amount	105.62	116.05	127.94	149.30	200.32
2	Referred during the year (inflow)	Cases	3,359	2,758	2,344	4,770	9,562
		Amount	19.15	23.11	27.35	61.14	78.32
3	Total	Cases	35,039	35,323	35,679	37,861	44,986
		Amount	124.77	139.16	155.30	210.44	278.64
4	Finalised during the year (outflow)	Cases	2,474	1,990	2,597	2,468	3,401
		Amount	8.71	11.22	6.00	10.12	12.77
5	Percentage of inflow to Opening balance	Cases	10.60	7.09	7.03	14.41	27.01
		Amount	18.13	19.91	21.37	40.95	39.09
6	Percentage of outflow to total cases pending	Cases	7.06	5.63	7.27	6.51	7.56
		Amount	6.98	8.06	3.86	4.80	4.58
Inflow/outflow figures include requisitions received from all departments, Government undertakings and other outside agencies.							

The above table reveals that, the outflow remained stagnant at around seven *per cent* during the period which is indicative of ineffectiveness of the collection machinery.

Difference in figures of arrears furnished by departments and CRA

3.3.3 The Commissioner of Revenue Administration (CRA) compiles monthly statements of demand, collection and balance received from the Collectors, district wise as well as department wise. A comparison of figures of the arrears under RR Act, as furnished by major departments with that of the figures furnished by the CRA revealed huge difference as detailed below:

(Rupees in crore)

Sl. No	Name of the Department	1999-00		2000-01		2001-02		2002-03		2003-04	
		DF*	CRA	DF	CRA	DF	CRA	DF	CRA	DF	CRA
1	Industries (Mines and Minerals)	96.80	35.79	188.35	37.87	163.30	37.92	172.39	37.19	199.30	40.23
2	Commercial Taxes (SD & RF)	35.02	17.13	39.49	17.11	64.52	17.40	76.10	19.10	137.36	23.15
3	Home (Prohibition & Excise)	13.25	2.03	13.40	1.69	11.87	1.87	11.13	1.81	11.27	2.02
4	Home (Transport)	2.51	1.56	2.20	1.84	4.14	1.84	1.76	2.32	2.19	2.22
	Total	147.58	56.51	243.44	58.51	243.83	59.03	261.38	60.42	350.12	67.62

*DF – Figures as given by the respective departments
CRA – Figures as furnished by the Revenue Department

Since there is no system to reconcile the figures either at the apex level or unit offices level at regular intervals, the authenticity of pendency of arrears at the close of each year could not be ascertained by audit.

Non issue of demand notice

3.3.4 As per Section 8 of RR Act, the Collector or any other officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of the defaulter, a demand (in Form 4) in writing and signed with his name, specifying the name of the defaulter, amount of arrears for which the distress may be issued and the date on which the arrears fall due.

In 18[32] taluks in respect of 6,794 cases, though requisitions for collection of arrears under RR Act were received between 1999-2000 and 2003-2004, no action has been taken to issue demand notices till date. This resulted in arrears of Rs.19.84 crore remaining uncollected.

After this was pointed in audit between June 2004 and March 2005, the Department replied that the notices would be issued. Further report is awaited (September 2005).

The matter was reported to the Government in June 2005; their reply is awaited (September 2005).

---

32 Avinashi, Bhavani, Chingleput, Coimbatore (South), Egmore-Nungambakkam, Erode, Fort-Tondiarpet, Gobichettipalayam, Kancheepuram, Kangeyam, Madurai (South), Mettupalayam, Palladam, Pollachi, Sankagiri, Trichy, Triruppur and Udumalpet.

2-20—8a

Non tracing of defaulters

3.3.5 In three[33] taluks, it was noticed that the village administrative officers (on directions from concerned tahsildars) reported, between January 2000 and August 2002, in 18 cases involving Rs.20.35 lakh that the defaulters were not available at the given addresses. Even after 24 to 48 months, no action either to refer these cases back to concerned departments to seek further directions or trace out the defaulters and effect recovery was taken by the tahsildars. This resulted in non realisation of arrears of Rs.20.35 lakh.

The matter was reported to the Department between June 2004 and March 2005 and to the Government in June 2005; their replies have not been received (September 2005).

3.4 Non collection of land cost

According to Board's Standing Order 24(1), Government can grant land to a local body, ordinarily free of cost for unremunerative public purpose and in cases of grant of land to local bodies for remunerative purposes, the question of collecting market value of the land could be considered.

In the office of Tahsildar (Land Revenue) Perundurai, land to an extent of 9,692 sq.f.t was alienated to President, Panchayat Board in 1942 for unremunerative purpose (for use as a daily market) on the condition that market value of the land shall be collected if, at any time, it was, found that the grantee had derived substantial income from it. It was however, noticed from the jamabandhi check memos for the years 2001 and 2002 that the daily market was shifted from the said land and a commercial complex built on it and the board is deriving substantial income from it. Failure of the Department to invoke the condition in the alienation order and recover the land cost, resulted in non realisation of land cost of Rs.41.67 lakh.

After this was pointed out in January 2004, the Department stated in August 2004 that action has been initiated to collect the amount. Further reply has not been received (September 2005).

The matter was reported to the Government in May 2005; their reply has not been received (September 2005).

33 Egmore-Nungambakkam, Purasawakkam-Perambur and Tambaram.

CHAPTER IV

STAMP DUTY AND REGISTRATION FEES

4.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2004 to March 2005 revealed under valuation, etc., amounting to Rs.9.82 crore in 365 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1	Under valuation of properties	84	1.12
2	Misclassification of documents	56	0.32
3	Others	225	8.38
	Total	365	9.82

During the course of the year 2004-05, the Department accepted underassessment etc., amounting to Rs.2.97 crore in 200 cases, out of which 35 cases involving Rs.1.29 crore were pointed out during the year and the rest in earlier years. Of these, the Department recovered Rs.70.13 lakh.

A few illustrative cases involving Rs.1.30 crore are mentioned below:

4.2 Incorrect allocation of transfer duty surcharge to local body

Under the provisions of Tamil Nadu Panchayat Act, 1994, a duty on transfer of property shall be levied in the form of surcharge (transfer duty surcharge) along with stamp duty imposed under Indian Stamp Act, 1899, (IS Act), on instruments of sale, exchange, gift etc., of immovable property. The rate of surcharge was five *per cent* upto 20 November 2003 and two *per cent* thereafter on the market value of the property transferred. The surcharge, so collected, is to be allocated to the local bodies.

In eight[34] sub registries (SR), it was noticed that in respect of 210 documents, transfer duty surcharge was erroneously allocated or allowed in excess to local bodies between August 2002 and March 2005. This resulted in incorrect allocation of Rs.1.09 crore.

After this was pointed out in audit between December 2002 and March 2005, the Department stated between August 2004 and March 2005, that an amount of Rs.0.65 crore has already been adjusted. Further details are awaited (September 2005).

The matter was reported to the Government between February 2005 and April 2005. Government accepted in May and June 2005 audit observation in two cases (Periamet and Tambaram). Further reply is awaited (September 2005).

4.3 Short levy of stamp duty and registration fees in respect of lease deeds

According to Article 35(a)(vi) of Schedule to IS Act, in respect of a lease deed relating to immovable property where the lease period exceeds 30 years but not exceeding 100 years, the stamp duty leviable shall be the same duty as a conveyance for a market value equal to 75 *per cent* of the market value of the said property. As per Article 35(c) of the Act, where the lease is granted for a fine or premium or for money advanced, in addition to rent reserved, the same duty as a conveyance for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease, is leviable in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered. The rate of stamp duty for conveyance is seven *per cent* and registration fee is one *per cent*.

It was noticed in SRs, Wallajah Nagar and Perundurai that five lease deeds were executed by SIPCOT[35] during the year 2002 and 2003, for which stamp duty was collected at 75 *per cent* of market value. It was, however, seen that the lessees paid Rs.1.26 crore towards plot deposit and development charges. Stamp duty and registration fees, though leviable on the above amount, was not levied. This resulted in short levy of stamp duty and registration fees of Rs.10.05 lakh.

The matter was reported to the Government (February/March 2005). Government accepted audit observation in May 2005. Further reply on recovery of dues is awaited (September 2005).

---

34 Adayar, Chennai (South), Mylapore, Periamedu, Tambaram, Thousand Lights, Triplicane and Virugambakkam.

35 Small Industries Promotion Corporation of Tamil Nadu.

4.4 Short levy due to under valuation of property

According to Article 23 of Schedule I to IS Act, stamp duty is leviable on the market value of the property conveyed. The rate of levy was 13/12 *per cent* depending upon the area where the land is situated, upto 20 November 2003 and at eight/seven *per cent* thereafter. Under Section 27 of the Act ibid, consideration and all other facts affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein.

In three[36] SRs, it was noticed in March/April 2003 and April 2004 that there was under valuation of buildings in respect of seven properties conveyed during 2002 and 2003. This resulted in short levy of stamp duty and registration fees amounting to Rs.5.54 lakh.

After this was pointed out between May 2003 and January 2004, the Department stated between February and May 2005 that an amount of Rs.3.05 lakh relating to Ambattur and Marakkanam, has since been collected. In respect of Mylapore, it was stated that out of five cases, amount has since been collected under samadhan scheme in four cases and the document was being referred under Section 47 A (3) in one case. Further reply is awaited (September 2005).

The matter was reported to the Government in January/April 2005. Government accepted audit observation between April and June 2005. Further reply on recovery of dues is awaited (September 2005).

4.5 Incorrect adoption of rate of stamp duty resulted in short levy

According to Section 2(6) of the IS Act, every instrument shall be chargeable with duty under the law in force, when such instrument was executed. In terms of Section 17 of the Act, all instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution. The rate of stamp duty on conveyance was reduced from 13 to eight *per cent* with effect from 21 November 2003.

In the office of the Joint-II SR, Chingleput, it was noticed in April 2004 that in respect of a sale deed executed on 20 November 2003 and presented for registration on 27 November 2003, stamp duty at eight *per cent* was charged instead of 13 *per cent*. Thus incorrect application of rate of stamp duty resulted in short levy of stamp duty and registration fees amounting to Rs.5.04 lakh.

After this was pointed out in June 2004, the Department accepted in March 2005 audit observation and stated that action has been initiated to recover the loss. Report on recovery is awaited (September 2005).

[36] Ambattur, Marakkanam and Mylapore.

The matter was reported to the Government (January 2005). Government accepted in May 2005 audit observation. Further reply on recovery of dues is awaited (September 2005).

CHAPTER V

TAXES ON VEHICLES AND STATE EXCISE

5.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2004 to March 2005 revealed underassessment of tax etc., amounting to Rs.24.53 crore in 197 cases which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
	Taxes on Vehicles		
1	Non/short collection of tax	91	7.81
2	Non/short collection of fees	7	0.02
3	Non/short collection of penalty	35	0.31
4	Others	17	1.46
	Total	**150**	**9.60**
	State Excise		
1	Non/short levy of excise duty	5	0.40
2	Non/short collection of licence fee, privilege fees etc	25	8.12
3	Non/short collection of penalty/ interest	8	0.03
4	Others	9	6.38
	Total	**47**	**14.93**
	Grand Total	**197**	**24.53**

During the course of the year 2004-05, the departments accepted under assessments of Rs.18.31 lakh in 15 cases, of which an amount of Rs.0.15 lakh has been collected.

A few illustrative cases involving Rs.2.01 crore are mentioned below:

TAXES ON VEHICLES

5.2 Non levy of additional tax on stage carriages issued with temporary permits

Under the Tamil Nadu Motor Vehicles Taxation Act, 1974, (TNMVT Act) when a motor vehicle for which tax has been paid is altered or is proposed to be used as a vehicle for the period, for which tax is payable at a higher rate, the difference between tax which is payable at the higher rate and the tax already paid shall be levied as additional tax. The rate of tax for contract carriages (omni bus) is Rs.3,000 per seat per quarter whereas the tax for reserve stage carriages (mofussil) is three fourth of Rs.450 per seat per quarter.

In two regional transport offices (RTOs) of Kancheepuram and Pudukottai, it was noticed in March/July 2004 that during the years 2002-2003 and 2003-2004, a total number of 411 special permits were issued under Motor Vehicles Taxation Act, 1988 (MVT Act) in respect of 40 reserve stage carriages/spare buses, allowing them to operate as contract carriages without collecting additional tax. The omission resulted in non levy of additional tax amounting to Rs.84.04 lakh.

The matter was reported to the Department in July/August 2004 and Government in May 2005; replies have not been received (September 2005).

5.3 Non levy of green tax in respect of old motor vehicles

According to TNMVT Amendment Act, 2003, an additional tax called "Green Tax" shall be levied and collected at Rs.500 per annum on transport vehicles in addition to the tax levied under the TNMVT Act for the purpose of implementation of various measures to control air pollution.

In 17[37] RTOs, it was noticed between July 2004 and February 2005 that in respect of 1,323 transport vehicles, green tax was not levied and paid during the year 2003-04. This resulted in non levy of green tax amounting to Rs.6.61 lakh.

After this was pointed out in audit, the Department stated between July 2004 and February 2005 that in respect of Gobichettipalayam and Kancheepuram, an amount of Rs.0.15 lakh has since been collected. Report of recovery in respect of other regions is awaited (September 2005).

---

37 Chennai (East), Chennai (North), Cuddalore, Dharmapuri, Erode, Gobichettipalayam, Kancheepuram, Madurai (South), Meenambakkam, Mettupalayam, Ooty, Thiruvannamalai, Tiruchengode, Tiruppur, Tiruvarur, Salem and Vellore.

The matter was reported to the Government in March 2005; reply has not been received (September 2005).

Raj Bhavan Library
- 8 JUN 2006
Che

STATE EXCISE

5.4 Non levy of penalty for low yield of rectified spirit

According to Rule 39(1) of Tamil Nadu Distillery Rules (TND Rules), 1981, the licensee shall maintain efficiency in fermentation and distillation and ensure yield of different kinds of spirits for different grades of molasses at the rates specified by the Commissioner from time to time. Review of the yield shall be made by the Commissioner once in three months. As per sub-rule(4) of Rule 39 of TND Rules, where yield rate is lower than the rate specified by Commissioner, the licensee shall pay penalty at Rs.16 per proof litre on the difference between the rate of yield specified by the Commissioner and the actual yield.

7740

In two distilleries[38], it was noticed in October 2004 and March 2005 that the actual yield of rectified spirit per metric tonne of molasses for the quarter ending 30 June 2003 was only 226.1 and 252.9 bulk litres (BL) respectively against the norms fixed by Commissioner at 250 and 255 BL respectively. This resulted in overall short yield of 3.77 lakh BLs (or 6.26 lakh proof litres[39]) for which penalty of Rs.1 crore, though leviable, was not levied.

350.7252 R
P05

The matter was reported to the Department in October 2004 and March 2005 and the Government in April 2005; replies have not been received (September 2005).

5.5 Non collection of excise duty at enhanced rates

Government by a notification dated 23 March 2002, enhanced the rate of excise duty (ED) in respect of 100 ml pack of ordinary brands of Indian Made Foreign Liquor (IMFL) from Rs.30 to Rs.47.50 per proof litre, with effect from 23 March 2002.

In the office of the Excise Supervisory Officer, M/s.Empee Distilleries Limited, Mevaloorkuppam, it was noticed in April 2003 that, the licensee lifted 8,470 cases of 100 ml pack of ordinary brands of IMFL containing 57,172.500 proof litres on 23 March 2002. The total ED payable on this quantity amounted to Rs.27.15 lakh. The distillery, however, paid only Rs.17.15 lakh at pre revised rates. This resulted in short collection of ED amounting to Rs.10 lakh.

---

[38] M/s.Trichy Distilleries Ltd. and M/s.Arooran Sugar Limited.

[39] 1 bulk litre = 1.66 proof litre.

After this was pointed out in April/May 2005, the Government stated in May 2005 that ED at enhanced rates for 23 March 2002 has been adjusted in the payment made on 26 March 2002. The reply is not tenable since on verification, it was seen that the company was charged excise duty at pre revised rates on 23 March 2002. Further reply has not been received (September 2005).

CHAPTER VI

OTHER TAX RECEIPTS

6.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2004 to March 2005 revealed income escaping assessment, incorrect exemption, non levy etc., amounting to Rs.5.30 crore in 31 cases which broadly fall under the following categories.

(Rupees in lakh)

Sl. No.	Categories	No. of cases	Amount
	Agricultural Income Tax		
1	Income escaping assessment	2	67.38
2	Non levy of interest and penalty	1	0.07
3	Incorrect computation of income	1	9.48
	Total	**4**	**76.93**
	Urban Land Tax		
4	Underassessment/non levy of urban land tax	16	412.43
5	Incorrect exemption	1	0.47
6	Other irregularities	10	39.89
	Total	**27**	**452.79**
	Grand Total	**31**	**529.72**

During the course of the year 2004-05, the departments concerned accepted underassessments in respect of seven cases involving Rs.94.12 lakh pertaining to earlier years of which an amount of Rs.0.21 lakh has been collected.

A few illustrative cases involving Rs.87.71 lakh are mentioned below:

AGRICULTURAL INCOME TAX

6.2 Non levy of interest and penalty on short/belated payment of advance tax

Under the Tamil Nadu Agricultural Income Tax Act, 1955 (TNAIT Act), every person liable to pay agricultural income tax on the agricultural income derived by him during the previous year, shall pay advance tax for the said previous year on or before the end of February of previous year. The advance tax shall not be less than 80 *per cent* of the tax due on the estimated total agricultural income derived by him during the said previous year.

Further, if, any person fails to pay the agricultural income tax in accordance with the provisions of TNAIT Act, he shall pay simple interest at the rate of 15 *per cent* per annum along with penalty at two *per cent* for every month or part thereof on the unpaid amount of tax.

In the office of the Agricultural Income Tax Officer, Coonoor, it was noticed in March 2002, that an assessee paid advance tax of Rs.7.43 crore instead of Rs.9.23 crore for the assessment year 1998-1999. The balance advance tax of Rs.1.80 crore was paid belatedly after a period of 10 months, for which interest and penalty of Rs.58.56 lakh, though leviable, was not levied.

After this was pointed out, the Department passed orders in April 2003/August 2004 levying interest and penalty for Rs.52.70 lakh and waiver of the remaining amount of Rs.5.86 lakh, being 10 *per cent* of the total amount, as ordered by Special Commissioner and Commissioner of Agricultural Income Tax. Report on collection is awaited (September 2005).

The matter was reported to the Government in January 2005; reply is awaited (September 2005).

URBAN LAND TAX

6.3 Omission to assess urban lands

Under the Tamil Nadu Urban Land Tax Act, 1966, as amended from time to time, urban lands are assessable to urban land tax on the basis of market value of lands, as on 1 July 1981, from fasli year 1401 (1 July 1991).

In three assessment divisions, it was noticed between November 2001 and November 2002, that the Department omitted to assess urban lands measuring 20.30 lakh sq.ft. belonging to 43 assessees, to tax from 1 July 1991 onwards. This resulted in non levy of urban land tax amounting to Rs.29.15 lakh as detailed below:

(Rupees in lakh)

Sl. No.	Name of the assessment division/ village	No. of assessees	Total extent not assessed to tax (square feet)	Period	Amount
1	Alandur	5	8,02,206	Between 1 July 1991 and 30 June 2004.	16.09
2	Tambaram	23	5,49,343	1 July 1991 to 30 June 2001	8.13
3	Kunrathur	15	6,79,145	1 July 1991 to 30 June 2004	4.93
Total		**43**	**20,30,694**		**29.15**

After this was pointed out, the Department stated between October 2004 and March 2005 that the lands have since been assessed to tax between October 2004 and March 2005 and a demand for Rs.29.15 lakh was raised. Report on recovery was awaited (September 2005).

The matter was reported to the Government in March 2005; reply has not been received (September 2005).

CHAPTER VII

NON TAX RECEIPTS

MINES AND MINERALS

7.1 Results of Audit

Test check of records of departmental offices conducted during the period from April 2004 to March 2005 revealed under assessment amounting to Rs.4.67 crore in 55 cases which broadly fall under the following categories.

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1	Non/short levy of royalty, dead rent and seigniorage fee	27	1.75
2	Others	28	2.92
	Total	**55**	**4.67**

During the course of the year 2004-05, the Department concerned accepted underassessment of Rs.25.17 lakh in 19 cases, out of which Rs.2.62 lakh involving three cases were pointed out during the year and the rest in earlier years. Of these, the Department recovered Rs.5.04 lakh.

An illustrative case involving Rs.7.32 lakh is mentioned below:

7.2 Non collection of brick mineral annual fee

Government, by two orders of December 2002, directed that every brick manufacturing unit in Tamil Nadu, on registration, shall apply for grant of permit for quarrying brick earth alongwith non refundable application fee[40] of Rs.1,500 and brick mineral annual fee[41] for different types of brick kiln at prescribed rates.

40 Application fee - Non refundable application fee payable by brick manufacturing units applying for permit to quarry brick earth.

41 Brick mineral fee - Annual fee payable for quarrying brick earth. This fee is leviable based on number of kilns.

2-20—11a

It was noticed in the offices of the Assistant Director of Geology and Mining, Tuticorin and Trichy, that in respect of 25 brick manufacturing units registered during 2003-04, application fee and brick mineral fee were not levied and collected. This resulted in non collection of application fee and brick mineral fee amounting to Rs.7.32 lakh.

After this was pointed out in audit in October 2003/December 2004, the Department stated in April 2004 that Rs.5.04 lakh due from brick manufacturing units in Tuticorin has since been collected and further stated in February 2005 that action is being taken to collect the amount from units situated in Trichy. Further report is awaited (September 2005).

The matter was reported to the Government in April 2005; reply has not been received (September 2005).

Chennai,
The -1 FEB 2006

(S.RAJANI)
Accountant General
(Commercial and Receipt Audit)
Tamil Nadu

Countersigned

New Delhi,
The 08 FEB 2006

(VIJAYENDRA N.KAUL)
Comptroller and Auditor General of India

ANNEXURE - I
(Refer to Para 3.2.7)

(Rupees in crore)

Sl. No.	Name of the lessee	Sq.ft.	Amount Total	Amount Last five years	Remarks
1	2	3	4	5	6
1	Shankar Rao	247	0.13	0.05	Lease was not renewed beyond June 1989. However, lessee continues to enjoy till date.
2	IOC	3,600	0.39	0.25	Lease was not renewed from the 1991 and lease amount not fixed.
3	IOC	9,353	1.11	0.80	Lease was not renewed from 1 April 1994.
4	Brilliant Trading Corporation M/s. Hotel Jayapandian (P) Ltd.	7,716	1.81	1.18	Original lessee sold the super structure building on Government land to M/s.Hotel Jayapandian. The new occupant had agreed to pay the lease rent. However, lease rent was not revised and collected (till date).
5	IOC	8,000	1.06	0.85	Lease was not renewed after 17 April 1995. However the lessee continue to enjoy the land. Demand notice was issued only in June 2004.
6	Lord Balaji Gas Agency	7,540	0.95	0.76	Lease was not renewed after 2003. Further lease rent was not collected for the lease period from 1990 to 2000. Demand notice for land revenue for the period from 1990 to 2005 (till date) have been forwarded only in June 2004.
7	Shoba Gas Agency	3,470	0.42	0.28	Lease was not renewed after 27 August 1996.
8	V.V. Venkata-subramaniam	1,665	0.49	0.34	Lease was not renewed from 11 July 1984.
9	M.Kanniappan	1,184	0.05	0.03	Lease was not renewed after 30 June 1993. Lease rent for the period from July 1988 to June 2004 is yet to be collected. Demand notice was issued only in June 2004
10	IOC	6,833	1.67	1.31	Lease for the period from 25 July 1996 to 24 July 2003 was sanctioned only in August 2002 and not renewed thereafter.
11	War Widows Association	12,000	0.27	0.27	Lease was not renewed from 25 January 2001.
12	Association of Surgeons of India and Institution of Engineers	47,104 & 22,126	5.53	4.11	Lease was not renewed after 23 June 1996. However, lessees continue to enjoy the land.
13	SPIC Ltd.	13,717	1.82	1.66	Lease not renewed beyond 5 April 2001. Proposals for lease was sent to Collector only in June 2004.

1	2	3	4	5	6
14	Al.Ameen School	2,18,350	1.02	1.02	Lease was not renewed from 5 June 2000 and lease rent not fixed.
15	IOC	10,000	0.54	0.47	Lease was not renewed from 17 June 1997 but lessee continue to enjoy the land .
16	Defence Department	1,71,623	0.13	0.07	Lease was not renewed from 1989 onwards.
17	Kajamalai Ladies Association	19,652	0.03	0.02	Lease was not renewed from 1990 onwards. However proposals for revision were sent only in 2003.
18	Officers Club	27,971	0.84	0.60	Lease was not renewed from the year 1997. Renewal proposal was sent to DRO for approval only in November 2003.
19	Union Club	1,58,177	12.71	4.60	Lease was not renewed from July 1977 onwards. Proposals were sent only in September 2001.
20	Chinnammal Medical Education and Research Foundation	1,06,808	0.37	0.23	Lease not renewed from 1993 to 2004.
21	Institute of Engineers	20,508	2.16	1.22	Lease was not renewed and lease rent was not fixed from September 1980 onwards.
22	E.V.Ramasamy Nagammai Education Research Trust	26,299	0.18	0.18	Lease has not been renewed from 3 July 2002.
	Total	9,03,943	33.68	20.30	

ANNEXURE-II (Refer to Para 3.2.10)

Sl. No.	Survey No.	Extent	Name of the lessee	Name of the present lessee
1	435	7 acre 22,703 sq.ft.	1. Somasundaram 2. Lakshmikanthamam 3. Sundarapandi	1. Somasundaram 2. Lakshmikanthamam 3. Sundarapandi
2	441/1	1 Acre 11,047 sq.ft.	Rajeswari Colony	Leela Meenaloacheri
3	441/2	1 Acre 11,047 sq.ft.	Rajeswari Sethuraman	Krishnan E.S.Dhandapani Sivaramakrishnan
4	442	1 Acre 11,047 sq.ft.	R.J.R. Enraitedurai	T.Sureshkumar Raniyammal
5	443	2 Acre 22,336 sq.ft.	Sameeth Duraisami	C.S.I Primary School, Chennai
6	446	1 Acre 38,473 sq.ft.	Vesilee Mission	St. Thomas Hr. Sec. School
7	447	1 Acre 41,575 sq.ft.	Vesilee Mission School	C.S.I. Girls Hr. Sec. School (Chennai Division)
8	452	15,455 sq.ft.	G.S. Stars	Abbukutti
9	453	4,234 sq.ft.	Dr.Rajesh Duraisamy	T.Ramarao
10	458	29,045 sq.f.t	Karon Duraisamy	Webs Memorial School
11	480/1	1 Acre 8,348 sq.ft.	Viswanathan Reddy	Kasiviswanatha Koil
12	481	1 Acre 27,222 sq.ft.	C.S.Annammal	St.Domanic Angilo Indian School
13	482	4 Acre 4,985 sq.ft.	C.L.C. Ranoji	Marnboard Technical Industrial
14	496	2 Acre 24,011 sq.ft.	S.K.Rajesh	Chennai Race Club
15	497	2 Acre 25,579 sq.ft.	William Henry Hon's Durai	Chennai Race Club
16	511	2 Acre 26,436 sq.ft.	Karneeswarar Koil	Karneeswarar Koil
17	1450	10,941 sq.ft.	Church of South India Association	Church of South India Association
18	1456	1 Acre 14,061 sq.ft.	Prabavathiammal Lakshmiammal	M.M.D.A.
19	1463	3 Acre 28,453 sq.ft.	Appaswami Pillai	Tharapoor & Co Company Building
20	1467/2	1 Acre 39,685 sq.ft.	National High Road	Chenjuri Motor Ltd.
21	1479	1 Acre 34,918 sq.ft.	Lucas	John Raskin School Amala Bhavanam
22	1481	1 Acre 21,693 sq.ft.	Marry Johnhas	Dr.Marryhas
23	1556	5 Acre 33,141 sq.ft.	Durai	Sri. Chakaravarthy International Marticulation School
24	1448	6,695 Sq.ft	Reverend Samuvel	K.S.Henry Babu
25	1460	4 Acre 22,616 sq.ft.	Chinnaswamy Cheni	V.Krishnamoorthy
26	1464	3 Acre 35,736 sq.ft.	C.P.Ranganathan	Revenue Inspectors Quarters Alandur, Pallikarani, Pallavan Transport Corporation Limited.
27	437	26,032 sq.ft.	Tvl.ArunkaniDurai	Pham Board Bungla
28	421	4 Acre 22,059 sq.ft.	Chakkarai Reddy	Purushothuman
29	1455	1 Acre 7,947 Sq.ft.	Krishnaswamy Chetty	Mathiws.

©
COMPTROLLER AND AUDITOR GENERAL OF INDIA
2006

N.T.P. SUPPLIED BY THE DEPARTMENT
PRINTED AT GOVT. CENTRAL PRESS, CHENNAI 600 079